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Special Issue on:
Fundamental Concepts of Political Theory

Adorno
Benoist
Bishay
Bokina
Fortmann
Geulen
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Woltermann

Culture
Federalism
Democracy
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A Quarterly Journal of Critical Thought

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Beyond Pseudo-Culture? Reconstituting Fundamental Political Concepts

Paul Piccone

Some three and a half decades after it was first written, Adorno's essay on pseudo-culture, which introduces this special issue of *Telos* on the reconstitution of fundamental political concepts, has not only managed to retain its relevance but remains one of the most incisive analyses of the permanent crisis of the "totally administered society." Yet it also betrays its origin in the late 1950s — the acme of the Cold War — when all political alternatives seemed foreclosed. It left radical intellectuals few options other than a tactical theoretical hibernation seemingly acquiescing to an indefinite extension of the given (pending unforeseable developments in the 1960s). This explains why Adorno ends up with such pessimistic conclusions, i.e., the identification of "culture" — problematic and contradictory as it may be — as the only *Katechon* which, though incapable of grounding itself in a society wallowing in the mundanity of consumerism, can provide some hope for critical reflection.

Contrary to the predominantly pseudo-cultural appropriations of Adorno by the post-modern or "Left" academic establishment as, e.g., "a Marxist ahead of his time" (Jameson), what is striking in this essay and in all of Adorno's works after his return to Germany is his *decisionism*, i.e., the stubborn defense of a free "spirit" unwilling to succumb to the fetishism of culture: "what may rightly be called cultural is solely what realizes itself by virtue of the integrity of its own spiritual form, intercedes only via this integrity, reacts to society but not in direct conformity with its laws." To the extent that pseudo-culture has yet to be fully universalized, "isolated individuals [such as Adorno] who

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have not been absorbed completely in the melting pot, or professional groups who celebrate themselves as elites, still participate in culture" and, as such, can provide that critical perspective inaccessible to all other by now well-integrated social strata.

Earlier calls for mimesis with nature, after having backed into the stalemate of *Dialectic of Enlightenment*, must not be confused with an identitarian reconciliation with a *natura naturata*, but must be understood as a vindication of that *natura naturans* embodying all that has been in order to remold what is in the image of what should be. In order to do so, however, it is necessary to recover much of what has been carelessly discarded in the "cleansing" phase of the project of Enlightenment. Even the largely discredited theological dimension turns out to be essential in a context where "the spirit may have secularized it into something without substance." In retrospect, the results of partial enlightenment have been disastrous: "where this [theological] belief — itself ideology — is lacking, an even worse ideology is looming." The facile dismissal of that transcendental dimension, the suppression of which renders the totality partial (and thereby false), ultimately undermines culture itself: "if the distinction between the language of the gods — the idea of a true language, one having to do with substantive matters — and the practical language of communication is no longer perceived, then culture is lost." Here "substantive matters" does not refer to nuts and bolts (something Adorno, following the logic of Hegel's brilliant essay on "Wer Denkt Abstrakt?" and the idealist tradition in general, had long since dismissed as mundane *par excellence*). Rather, it refers to the stuff of philosophy and religion: the teleological dimension constitutes "the principle of culture," i.e., "something spiritual, something not immediately useful to someone else, not immediately measurable in terms of its purpose." It is precisely the lack of "this something" in politics which leads to the longing for authority, even that of an impersonal bureaucracy or dictatorship (as a poor substitute for the old "father figure"), while in everyday life it paves the way for the triumph of pseudo-culture: "bleak existence — the soul which does not aspire to anything higher in life — requires substitute images for the divine which it obtains through pseudo-culture." Here the Husserlian critique of "the crisis of the European sciences" is extended to "popular culture" to vindicate that transcendental teleological dimension characteristic of Western civilization.

Despite occasional slips into residual 1930s Marxist crudities such as "the cultural lag" — "the discrepancies which result from the fact that the superstructure is revolutionized at a slower pace than the base" —

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thoroughly discredited even within American academic sociology by the mid-1940s, Adorno's defense of culture is predicated entirely on the re-articulation of its traditional roots: "nothing which can be called culture can be grasped without prerequisites." The most important of these prerequisites is none other than tradition itself. Although he does not fail to indicate that "tradition was essentially one among many other social conditions of culture," and a very ambiguous one at that, Adorno is clear about the fact that "the loss of tradition through the disenchantment of the world ultimately leads to a condition of culturelessness, to a sclerosis of the spirit through its instrumentalization — which is incompatible with culture from the start." The result is the crippling of experience itself, i.e., of "the continuity of consciousness in which everything not present survives, in which practice and association establish tradition in the individual." What replaces it is "the selective, disconnected, interchangeable and ephemeral state of being informed which . . . will promptly be cancelled by other information." This grounding also happens to constitute "radicalism" and the foundation of "critique," i.e., the awareness of the roots of things and their tortuous development into "what is," in order to provide a concrete standpoint from which to evaluate the inadequacies of the given.

Adorno is still unclear about how to explain this phenomenon. Sometimes it is seen as related to domination, at other times to the old division of manual and mental labor, the unfinished character of the bourgeois revolution, the incompleteness of the Enlightenment project, etc.; most often, to all of them together, as aspects of the logic of capitalism. Only in *Negative Dialectics* and *Aesthetic Theory* did he manage to develop the full critique of identity logic into a theory of art as the only remaining path to a truth that has stubbornly refused to succumb to barbarism, i.e., the triumph of the mundane and the exclusion of all extraneous axiological residues. What allows the artist (and the philosopher) to achieve this exceptional redemption precluded for all others is their direct access to the totality, false as it may be, which alone allows for the development of concrete individuality — even if in the "totally administered society" this concrete individuality necessarily ends up embodying all of society's predominant pathological traits. Unable to mediate the cultural gap obtaining between the false totality and reified consciousness, classical critical theory escaped into artistic mysticism or abstract philosophical reflection.

In the 1950s — the golden age of IBM, GM and industrial gigantism, (not to mention the central planning of European social-democracy and

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"really-existing socialism" or the consolidation of the New Deal in the US) — the old Faust's communitarian solution to the problem of pseudo-culture must have seemed quaint at best. The possibility of communities as mediating structures between an otherwise inaccessible false totality and an alienated individuality stultified by the narcotics of pseudo-culture could not entice Adorno's generation, for whom that option had been tainted as terminally reactionary by the horrors of a resurgent "Aryan community." reactionary. Thus classical critical theory remained stuck in the modern equivalent of Hegel's unhappy consciousness: in an ontic gap between an inaccessible totality and an inadequate particularity bridgeable only occasionally by the artist's mystical insight or exceptional philosophical intellection. The solution to such a predicament, however, may very well be a secularized version of what Hegel brilliantly described in *The Phenomenology of Spirit* as the constitution of the Church as the key *mediational* institution at the time: a federal populism predicated on relatively autonomous communities allowing that participatory democracy, social individuality and personal identity impossible to achieve *immediately* within the "totally administered society." This is not romantic nostalgia for a golden age which never was. After the collapse of "really existing socialism" and the disintegration of IBM, GM and other mega-industrial conglomerates into the equivalent of industrial federations of small, highly efficient and accountable units of post-Fordism, the communitarian option is as realistic an alternative to the predominant rationality crisis today as the Church was at the dawn of the Middle Ages. Doomed to permanent alienation within a mass society mismanaged by a New Class of "experts" and bureaucrats, individuality could be reconstituted at the level of relatively autonomous communities where the pseudo-culture mass-marketed by the culture industry can be effectively mediated and thereby contained by local agencies responsible to local constituencies. When all is said and done, pseudo-culture may well turn out to be not an epiphenomenon of capitalism, as Adorno seemed to suggest whenever he was at a loss to come up with anything more original, but of a modernity inextricably embroiled with centralization, massification and that domination of the concept possible only under the well-concealed hegemony of a post-bourgeois New Class.

Far from constituting merely another abstract utopia, this federal populist project feeds directly into the new post-Cold War logic within which the Western liberal-democratic apparatus is increasingly unable to manage a welfare state no longer legitimated by any totalizing

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communist threat. This also corresponds to the final demise of that *Jus Publicum Europæum* (which, for all practical purposes, was already obsolete after WWI but was kept in place by the bipolar division of the world) and of that Fordism historically deployed primarily for *de facto* political rather than *de jure* efficiency imperatives to better manage a dislocated population now reduced to a cretinized passive "mass." The 21st century, well underway since 1989, promises to be something radically different from the previous one. No longer hounded by the incubus of centralization, the new century may also see the decline of pseudo-culture as new local political institutions begin to mediate between the universality of a cosmopolitan culture and the particularity of everyday life. Within such a context it is imperative to reconsider political theory, whose fundamental concepts have been terminally corrupted by their complicity with statism, centralism and New Class ideology.

Nothing better describes the present status of political theory than Adorno's analysis of pseudo-culture, where the loss of a solid traditional grounding has brought about a veritable Orwellian predicament. Within the context of today's conformist political theory, modern representative "democracy" can hardly be regarded as democratic anymore; contemporary "federalism" has nothing to do with federations or the preservation of cultural and political autonomy; and the concept of "law" has lost all normative import. Degraded to the level of arbitrary and expedient "regulations," it no longer warrants unquestioned compliance. Even more recent concepts, such as "the nation" or "the people," have lost all substantive meaning and become crude instrumentalizations meant to legitimate the *status quo*. In the hands of Panglossian ideologists bent on pleasing the powers that be by demonstrating the "universal validity" and therefore the "unquestionable truth" of whatever happens to be the case, these affirmative concepts neutralize and deactivate the normative content they originally embodied. Thus "the nation" no longer exhibits any axiological dimensions which designate a particular, self-determining and geographically-circumscribed citizenry sharing a common history and common goals. Similarly, "the people" ceases to have any specificity or qualifications and designates only an amorphous mass of physical bodies whose only redeemable attribute is that it can be counted and instrumentalized to legitimate "democratically" whatever mediatized agenda it can be manipulated into supporting. No wonder, then, that the very notion of "community," degraded to a positivistic description of "really existing communities," no longer connotes anything held "in common" other than the fact that

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some people happen to be in physical contiguity at some particular time.

In order to emphasize the intrinsic connection between law and politics, and to correct current legal-positivist interpretations of law as merely arbitrary regulations voted in and out by whatever legislative majority happens to hold power at any particular time, this issue of *Telos* includes one of the corollaries to Carl Schmitt's last major work, *Der Nomos der Erde* (1950). In this corollary, Schmitt traces the origins of what he describes as the most fundamental legal concept, *nomos*, back to the world-historical shift from nomadic to agricultural societies where it successively took on the meaning of appropriation-distribution-production. In this sense, *nomos* is constitutive not only of a territorially-defined community within which it is institutionalized but eventually also of international laws governing relations between the various autonomously constituted units whose very identities are determined by what they exclude (in Schmitt's terms, the friend/enemy distinction). Consequently, the successive transformations of *nomos* into *lex*, *Recht* and *Gesetz* do not represent mere translations of the same concept over time but embody crucial institutional and geopolitical developments which Schmitt systematically elaborates.

At any rate, the most important objectification of *nomos*, the modern state, has undergone significant changes with the transformation of the liberal state (*Rechtsstaat*) into the welfare state (*Sozialstaat*), while on the geopolitical level the traditional nation-state has become obsolete with the final collapse of the *Jus Publicum Europæum*. By vindicating the original meaning of *nomos* and thus emphasizing the primacy of "appropriation" over "distribution" and "production," Schmitt provides a series of penetrating insights into the changing character of modern politics, where fiscal policy, the primary modern mode of appropriation, is rapidly becoming the main locus of political struggles within welfare states. Mediated by legislated means such as wage and price regulations, capitalist appropriation becomes institutionalized and ceases to be particularly problematic (the end of the traditional class struggle), while New Class appropriation through fiscal policies takes center stage, redefining political battlelines. This new class struggle, if one insists on retaining the old Marxist terminology, is no longer between the old bourgeoisie and the mythological proletariat, but between the productive, tax-paying sectors of society and the parasitical managerial state apparatus. It is no accident that today's major political issues have to do with privatization, bureaucratization, rationalization of the state apparatus (entitlements, affirmative action, transfer payments, welfare reforms,

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etc.) and, most of all, fiscal policies, rather than anything remotely resembling "exploitation" or "control of the means of production." In fact, the transformation of Marxist revolutionaries into New Class apparatchiks and state bureaucrats has already come and gone with the fiascos of bureaucratic centralism and social democracy.

Geopolitically, international relations now rotate around *de facto* continental *Grossräume* rather than the old sovereign states sanctified for the last time in the Helsinki Treaty (1975), immediately prior to the collapse of that bipolar world which had already rendered this state practically meaningless (beginning with the deployment of the Monroe Doctrine in the 19th century and culminating with the demarcation of clear-cut spheres of influence after Yalta). Writing in the early 1950s, Schmitt could only speculate about post-Cold War geopolitical developments such as current attempts to launch a US-dominated "New World Order" in the wake of the collapse of the USSR, or related countereffortsto establish three *de facto* well-defined *Grossräume* (a Germany-dominated Europe, a Japan-dominated East Asia and a US-dominated North America). Yet in his corollary, some forty years before it happened, he already outlined these alternatives and discusses their implications.

Even more corrupted than fundamental concepts such as "law," "democracy" has in recent years received a great deal of attention, but all too often with very disappointing results (the usual relegitimation of representative democracy as the only viable version in the modern world). By comparing today's notion of representative democracy with its Greek forerunner, Alain De Benoist vindicates a theory of democracy predicated on related concepts of direct participation, active citizenship, personal identity and organic community, which prefigures a social reality transcending the shortcomings of mass society, pseudo-culture and New Class domination. Is this another instance of reactionary nostalgia for an age characterized by even more pervasive forms of domination, or does it prefigure unrealized communitarian possibilities unshackled by pre-modern limitations? Pathological as they may have been so far, the advent of new trends such as multiculturalism and post-modernism suggests that no major political question has been answered once and for all, and that the old red herring of slavery and misogyny traditionally called upon to discredit ancient democracy will no longer work in a post-modern context where pre-modern exclusionary practices predicated on sex, race, ethnicity, etc., have long since become untenable. Thus today communitarian and libertarian challenges to New Class ideology are likely to open a new phase in the history of democracy by demanding

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the reconfiguration of social, economic and political institutions along *participatory* democratic lines.

A participatory democracy predicated on an active citizenry, however, presupposes a concept of "the people" more concrete than the present one designating abstract individuals sharing a common space at a particular time. As Chris Woltermann shows, historically — as recently as a century ago — "the people" referred to something considerably more concrete. Here, once again, the usual "progressive" counter-argument is that exclusionary qualifications are routinely deployed in defense of privilege and to perpetuate the oppression of weaker groups, in order to restrict democracy to a few infamous property-owning white males — preferably WASP. True enough, the history of democracy can be seen as the history of efforts to broaden the franchise to include previously excluded groups. On closer examination, however, this history turns out to be something other than the steady progressive institutionalization of unquestionable ideals often associated with the fulfillment of the New Class agenda after the French Revolution. The reduction of "the people" to an abstract quantifiable mass "democratically" approving or disapproving whatever pre-constituted agenda is placed before them, or voting for candidates and parties that operate within a political sphere with no organic roots in active public life, is not democracy but manipulation. Similarly, as Elías José Palti shows in his devastating critique of Hobsbawm's confused and conformist concept of "the nation," this kind of mass democracy often contradicts another fundamental democratic principle: self-determination. The solution to this antinomy rests with a federalism allowing maximum possible autonomy to the constituent elements whose fundamental units will have to be sufficiently small to permit direct democratic participation. Only within such a context can organic participation in public life define the participants as "a people" determining their own destiny and, in the process, establishing a common identity.

Considerations of this kind were paramount in the debates preceeding the formation of the US. An aggregation of heterogeneous groups of people fiercely committed to their political autonomy and particularistic religious practices could only be sustained by forming a "federation" to protect local self-determination and cultural specificity. As Susan Bishay points out, however, from the very beginning the statist concerns of the Federalists forced the creation of an ambiguous "federal state" which, following the denial of the right to secession prior to the Civil War and the consolidation of the New Deal in the

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20th century, became practically indistinguishable from a unitary nation-state. Today most American political scientists continue to celebrate the US political framework as "federalist" in character, thereby confusing European admirers (such as "integral federalists") and pre-empting the institutionalization of genuinely federalist ideas (originally articulated, ironically enough, by the Anti-Federalists) as radical alternatives to the increasingly ungovernable *status quo*. In an extensive review of 20th century literature on the subject, Bishay points out the abysmally conformist character of standard accounts of federalism, engaged as they have been since the New Deal, and even more since the Great Society, in the legitimation of centralism as consistent with federalism. Thus, along with the concepts of law, democracy, people, nation and community, federalism has also fallen victim to the predominant pseudo-culture of a mainstream political science committed to that New Class statism responsible — from the very beginning — for the constitution of "political science" as an autonomous discipline.

The rescue of all these concepts from their pseudo-cultural degradation by an academic establishment bent on reconciling them at all costs with current political practices in order to legitimate existing relations of domination — relations today defended by obsessive official calls for "change," understood exclusively as the accelerated extension of the logic of the given — presupposes a concept of "community" which, unfortunately, does not readily correspond to any "really existing community" anywhere, least of all in the US, with its high rate of social and geographical mobility. As Louise Fortmann and Emery Roe point out, most of today's communities are, by and large, what dismissive liberals say they are: disintegrated aggregations of abstract individuals colonized by the culture industry, politically impotent and economically dependent on the whims of a socially irresponsible multinational capital concerned primarily with the infamous "bottom line." One need not look much further than any dog-eared edition of *The Communist Manifesto* to find an accurate description of how this state of affairs came into being. Equally clear is that this is an increasingly intolerable situation which cannot be remedied by the kind of social engineering traditionally deployed by the various welfare states, social-democratic governments and "really existing socialist" regimes.

If cultural deficits cannot be readily rectified by mere economic means, as whole generations of readers of *The Communist Manifesto* had been misled to believe, and there is really no solution to such an identity

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crisis other than the reconstitution of communities, then the need for a rigorous federalism as a substitute for the present federal state is all the more urgent. Contrary to classical critical theory's paranoia about the omnipotence of the culture industry, the latter obtains only in a context in which communities are no longer minimally able to mediate the process of *Bildung*. Where tradition thrives, the culture industry is impotent. The Coca-Cola Corporation has not been particularly successful in penetrating the Amish market, while those parts of the Black community where, e.g., the Southern Baptist Church remains the main cultural organizing agency, have remained exceptionally stable and elatively unaffected by the surrounding disintegration resulting from the nihilism associated with consumerism and the culture industry. In fact, whatever sectors of modern society have managed to remain relatively unaffected by the predominant disintegration are usually grounded in residual communities which have somehow managed to retain their social integrity, internal stability and traditional perspective. Even seemingly incorrigible social engineers such as James Coleman, who spearheaded some of the Great Society's most counterproductive educational experiments, today acknowledge that, unless these stable social structures are somehow encouraged and reconstituted, the future will simply consist of the further extension of current disintegration. Thus the task cannot be merely to provide accurate descriptions of what most communities have become but, rather, to prefigure ways to reconstitute healthy new communities from the traditional ruins littering the social landscape — ruins which in fact sustain rather than pollute whatever social stability and viable individuality remains.

Prospects are not as bleak as Fortmann and Roe seem to imply. Contrary to 19th century myths about the irreversible centralizing thrust of modern technology and economic organization, the advent of post-Fordism means the end of gigantism and centralization — a phenomenon paralleled by by the unexpected viability of small productive units and relatively autonomous communities. Even unreconstructed Marxists still committed to the base-superstructure model and analyses predicated on mechanical "cultural lags" can deduce from this that the kind of industrial federalization presently underway in all major multinational corporations prefigures a parallel social and ecological rationalization. What this suggests is that the project to reconstitute and reinvent organic communities is not a romantic call to return to an idealized past, but a paradigmatically post-modern project continuous with, rather than opposed to, current capitalist rationalization, economic integration and technological innovations.

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A recent fashionable text by Benedict Anderson takes pain to emphasize the "invented" character of communities not only in order to show how they are manipulated by particular — usually national — interests to support questionable political agendas, but also to discredit any traditional groundings communities may have. The covert objective is to dismiss communities as contingent and arbitrary aggregations susceptible to manipulation and instrumentalization, and, therefore, without any normative import. What this cynical analysis leaves unstated is its own traditional Enlightenment assumptions of abstract individuality, the infinite malleability of institutions, and a unilinear theory of history projecting an inexorable progression toward a vague classless society. In other words, as in the case of another British Marxist historian — Eric Hobsbawm — whose work on the nation is systematically demolished by Palti in this issue, this is precisely that New Class ideology which, though revolutionary in rhetoric, ultimately turns out to be a pallid apology for the *status quo* and existing relations of domination.

Since communities do not grow on trees and do not fall from the sky, of course they have to be "invented." How they are invented, however, is crucial. A bunch of bureaucrats sitting around a table drawing up plans for a "community" have not and will not come up with much more than new versions of the various failed utopias littering the history of the last couple of centuries. This has nothing to do with the relative competence of the particular social engineer, but with the fact that communities involve the totality of people's lives, much of which is pre-rational, habitual and uncritical, i.e., sedimented in lifestyles, institutions and habitats. Consequently, communities can only come into being, develop and undergo reconstitutions organically, through long processes of trial and error. Clearly, this is not the place to tackle the immense *terra incognita* of community reconstitution. All that need be said is that, along with the failures, there are also many examples throughout recent history of successful community reconstitution in the US, before the advent of the massive government intervention with Progressivism and the New Deal, when highly heterogeneous people did in fact manage to live together in relative peace and harmony and were well on their way to developing a distinct "American" type. At any rate, the problems Fortmann and Roe list, such as community membership, mobility, fragmentation, outside control, etc., do not arise only in the process of reconstituting communities but, as can be seen with the growing concerns with illegal immigration, fiscal policies, ecological stability and economic dislocation, they are problems affecting all advanced

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industrial societies (where they remain largely unsolved). Here it may be the case that, unmanageable at the broader, impersonal national level, these problems may be susceptible to solutions within a communitarian context more accountable, responsive and responsible than the mega-bureaucracies of the welfare state. No prediction in the 20th century has been more wrong and misguided than Lenin's hypostatization of the Post Office as the model for all future institutions.

As Donald Warren shows, however, while the growing inadequacies of existing political institutions have generated widespread protest movements both in Europe and the US (in the 1960s, with predominantly Leftist outlooks, but more recently associated with the New Right in Europe and a vague populism in the US) the narcotic of statism has taken its toll. Today most of the same people who complain about political realities and actively search for alternatives still expect government to provide all the goods and services it promises. Consequently, rather than translating into a call for radical constitutional reforms, these protests feed into efforts to rationalize and streamline a bureaucratic apparatus whose flaws are structural rather than operational. This means that a viable federal populism will have to wait for such a state-dependant citizenry to realize that there are no free lunches and that real freedom entails a form of political existence rather different from that of today's passive political spectators. Contrary to Pogo's surprising discovery a few years ago, the enemy has yet to be fully identified. As long as the New Class is able to convince everyone that it is none other than "us," it will successfully deflect and neutralize criticism of its increasingly nefarious and parasitic role. Democratic in rhetoric, "normal" politics will remain the exclusive prerogative of a privileged elite with ready access to real or cultural capital.

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*Theory of Pseudo-Culture (1959)**

Theodor W. Adorno

What today is manifestly a crisis in culture (*Bildung*) is not exclusively the subject matter of any particular discipline nor even of a sociology of culture. The symptoms of the decline of culture, which are recognizable everywhere, even among the highly educated, cannot be explained entirely by the inadequacies of educational systems and teaching methods which have been blamed for generations. However necessary they may be, pedagogical reforms alone are not sufficient. At times they may even intensify the crisis by lowering the intellectual demands made on those who are to be educated and by naively underestimating the impact of extra-pedagogical reality on these people. However, random considerations and investigations into the social factors which influence and intrude on culture, on its present function, on the countless aspects of its relations to society, no more approximate the power of what takes place than do educational reforms. Like partial factors of the social totality immanent within the system, they are part of the category of culture itself; they move within the sphere of relations which should be understood clearly. What has become of culture, now deposited as a kind of negative objective spirit (and not just in Germany), can be deduced from the laws

* Originally published as "Theorie der Halbbildung" in 1959 and reprinted in Theodor W. Adorno, *Schriften*, Vol. 8, "Sociologischen Schriften," pp. 93-121. Translated by Deborah Cook. Adorno uses the word *Bildung* in a variey of senses: education, cultivation, formation and culture. Thus the word has been translated in different ways, depending on the context. Adorno also distinguishes between *Bildung* and *Kultur*. When "*Bildung*" is used, it appears in brackets and the reader may assume that Adorno continues to use it until the bracketed *Kultur* appears. Conversely, "*Kultur*" appears in brackets and applies until the bracketed *Bildung* appears. In certain cases the same procedure is followed until the adjectival forms of the words: e.g., *Bildungsgüter* and *Kulturgüter*, where they are treated as nouns.

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of social movement, even from the concept of culture itself. Culture has become socialized pseudo-culture (*Halbildung*) — the omnipresence of alienated spirit. Given its genesis and meaning, pseudo-culture does not precede culture, but rather follows it. Everything in it is caught in the web of socialization. There is no unformed nature any longer; but the crudeness of nature, the old false claim, lives on and tenaciously reproduces itself. A perfect example of a consciousness divested of self-determination, it clings to the approved elements of culture as an inalienable right. However, under its spell these elements gravitate toward barbarism as they decay. This cannot be explained only by the most recent developments, and certainly not by the slogan "mass society," which generally indicates nothing but a blind spot where the work of knowledge must begin. The fact that pseudo-culture, despite all enlightenment and the spread of information, indeed with their help, has become the dominant form of contemporary consciousness, is just what demands a more comprehensive theory.

Given the practices of pseudo-culture, the idea of culture (*Kultur*) itself should not be sacrosanct. For education (*Bildung*) is nothing other than culture (*Kultur*) from the standpoint of its own subjective goals. But culture has a dual character: it refers to society and it mediates between society and pseudo-culture. In German parlance, culture, which is sharply distinguished from praxis, refers solely to intellectual culture. Inherent in this view is the idea that the complete emancipation of the bourgeoisie did not succeed, or succeeded only at a particular time when bourgeois culture could no longer equate itself with humanity. The defeat of revolutionary movements, which in Western countries sought to realize the concept of culture as freedom, has thrown these ideas back to them, so to speak, and has not only occluded the link between these ideas and their realization but has made it a taboo. Culture has become self-sufficient. In the terminology of worn-out philosophy, it has become, a "value." The great speculative systems of metaphysics and that great music with which they are linked so closely certainly owe their existence to culture's autarchy. However, it is precisely in such an intellectualization of culture that its powerlessness is already confirmed: the real life of people is given over to blind existence, blind changing relations. Culture is not indifferent to this phenomenon. Max Frisch observed that people who occasionally participated passionately and knowingly in so-called cultural goods were able to subscribe unreservedly to National Socialism's murderous practices: this is not only a measure of an increasingly divided consciousness but it objectively gives the lie to the content of those cultural goods — humanity and everything that lives in it — to the

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extent that they are nothing but cultural goods. Their inherent meaning cannot be separated from the course of human affairs. Any culture (*Bildung*) which proceeds otherwise, which posits itself autonomously and absolutizes itself, has thereby become pseudo-culture. An example can be found in the writings of Wilhelm Dilthey who, probably more than anyone else, made the concept of intellectual life (*Geisteskultur*) palatable to the German upper middle-class as an end in itself and handed it to pedagogues on a platter. Lines from his most famous book, such as his reference to Hölderlin, "Where has another poet's life been woven from such fine material, as from moon rays! And as was his life, so was his poetry,"[1] are, for all the erudition of the author, no longer to be distinguished from cultural-industrial products in the style of Emil Ludwig.[2]

Conversely, when culture understood itself as molding real life, it unilaterally stressed the element of adaptation in order to keep people in line. It did so to fortify the precarious continuity of socialization and to contain those chaotic outbreaks which occur periodically precisely where a tradition of autonomous intellectual culture is established. At best the philosophical idea of culture (*Bildungsidee*) sought to protectively shape natural existence. It meant both the repression of animal instincts by making people conform to each other and the redemption of the natural in the face of the pressure from the frail man-made order. The philosophy of Schiller, of Kantians and of Kant's critics, were the most precise expression of the tension between both tendencies, whereas in Hegel's theory of culture, as in that of the late Goethe, the desideratum of adaptation triumphed in humanism itself under the epithet of renunciation. Should that tension ever dissolve, then adaptation would become dominant — the measure of what was already there. Because of the way it is individually determined, it refuses to rise above the positive, above what is already there. Given the pressure it exerts on people, it perpetuates what is unformed in them, which it believes it has formed: aggression. According to Freud, this is the reason for discontent in culture (*Kultur*). In terms of the history of ideas, all conformist society is nothing more than Darwinian natural history. It puts a premium on the survival of the fittest. Were the force-field called culture (*Bildung*) to be constituted in fixed categories, whether spirit or nature, sovereignty or adaptation, each

1. Wilhelm Dilthey, *Das Erlebnis und die Diktung* (Leipzig and Berlin: B. G. Teubner Verlag, 1919), p. 441.

2. [Tr.] Emil Ludwig, a.k.a. Ludwig Cohen (1881-1948) was trained as a lawyer, but early in life turned to writing biographies (with Plutarch as his model), novels and plays, the former more successful than the latter.

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of these isolated categories would be in conflict with what is common to them: they would become ideology and promote degeneration.

The dual character of culture (*Kultur*), which found its equilibrium only momentarily, is derived from the unresolved social antagonism which culture would like to cure but as mere culture cannot. In the hypostasis of the spirit brought about by culture, reflection transfigures the socially conditioned separation between physical and mental labor. The objective superiority of the dominant principle justifies the old injustice, whereas it is obviously only by dissolving the dominated that the possibility of ending the stubborn repetition of relations of domination becomes evident. But adaptation is immediately the schema of progressive domination. Only by making itself equal to nature, by restricting itself to what exists, did the subject become capable of controlling what exists. This control presents itself socially as a means of controlling human instincts, ultimately as a means of controlling the life-process of society as a whole. But the price for this is that nature triumphs because it always tames the animal tamer, who vainly approximates it, first through magic and ultimately through rigorous scientific objecivity. In the process of such approximation — the elimination of the subject in the interest of its own self-preservation — the opposite of what it knows is affirmed: the pure inhuman relation to nature. Guilty by association, its moments are necessarily opposed to each other. In view of the progressive domination of nature, the spirit becomes obsolete and falls victim to the stigma of magic which it once attributed to the belief in nature: it substitutes subjective illusions for the power of objective facts. Its own essence, the objectivity of truth, turns into untruth. But, in a society which now simply exists and blindly develops, adaptation does not go beyond it. The arrangement of human affairs runs up against the limits of power. Even in the will to arrange affairs humanely, power remains the dominant principle denying reconciliation. Adaptation is thereby restrained — it becomes a fetish as much as the spirit does; becomes preeminent among the universally organized means over rational ends, the gloss of pseudo-rationality lacking any conceptual specificity. It builds a glass house misconstrued as freedom and such false consciousness combines with an equally false and bloated self-consciousness of the spirit.

This dynamic is in agreement with that of culture (*Bildung*). Culture is no constant: not only is it different in different epochs according to its content and its institutions, but not even as an idea can it be transposed arbitrarily. The idea of culture was emancipated with the bourgeoisie. The social typologies of feudalism, such as the *gentilhomme* and the *gentleman*, and above all the old theological scholarship, detached themselves

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from their traditional forms of existence and their specific determinations and became independent with respect to the social context in which they were formerly embedded. They became reflective, self-conscious and were simply applied to other people. Their realization was said to correspond to the realization of a bourgeois society of free and equal persons. At the same time, however, they became detached from their purposes, from their real functions, just as radically as in Kant's aesthetic of purposefulness without purpose. Culture was supposed to benefit the free individual — an individual grounded in his own consciousness but developing within society, sublimating his instincts purely as his own spirit. Culture is implicitly the prerequisite of an autonomous society — the more enlightened the individual, the more enlightened society as a whole. Nevertheless, the relation of culture to an anticipated praxis appeared contradictory; it appeared to sink to an heteronomous level, to become a means of safeguarding advantages in view of the unstratified *bellum omnium contra omnes*. No doubt presupposed in the idea of culture is a condition of humanity without status or purpose, and once culture cedes something to this condition and becomes embroiled in the praxis of socially useful labor in the pursuit of particular ends, it becomes untrue to itself. But its purity, which becomes ideology, is no less at fault. To the extent that purposeful factors are inherent in the idea of a culture, they were accordingly supposed to enable the individual to preserve himself as a rational person in a rational society, as a free person in a free society. According to the liberal model, this should proceed best if every man is educated for his own benefit. The fewer the social relations, especially where economic differences follow suit, the more the idea that culture is oriented by a purpose will be rejected. One should not dwell on the sore point that culture alone does not guarantee a rational society. One clings to the hope, false from the beginning, that culture will be able to achieve for people what reality denies them. The dream of culture — freedom from the dictatorship of means, from obdurate and sterile utility — is turned into an apology for the world guided by that same dictatorship. The dubious quality of culture breaks through the cultural ideal that culture (*Kultur*) is absolute.

The progress of culture (*Bildung*) to which the young bourgeoisie subscribed in opposition to feudalism by no means proceeded as straightforwardly as this hope suggested. When the bourgeoisie took political power in England and France, in the 17th and 18th centuries respectively, it was more developed economically and in terms of its consciousness than the feudal system. The qualities which the word "culture" then acquired allowed the rising class to achieve its goals in economy and

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administration. Culture was not only the mark of the emancipated bourgeois, not only the privilege which the bourgeois had over lesser people, such as peasants. Without culture the bourgeois would hardly have succeeded as entrepreneur, middleman, civil servant or anything at all. It was different with the new class which was produced almost as soon as bourgeois society became consolidated. When socialist theories attempted to awaken the proletariat to consciousness, this class was by no means subjectively more advanced than the bourgeoisie. It was not unreasonable for socialists to derive their historical position from their objective economic condition, not their spiritual condition. Even in a society where people were formally equal, property owners had a cultural monopoly. The dehumanization brought about by the capitalist mode of production denied the workers everything necessary for culture, beginning with leisure. Attempts at educational remedies miscarried to the point of caricature. All so-called folk culture (in the meantime one has become accustomed to avoiding the term) suffered from the illusion that it could revoke the socially dictated exclusion of the proletariat from culture merely through education.

But the contradiction between culture and society does not simply result in lack of culture in the old style, the peasant style. Today rural areas are breeding grounds of pseudo-culture. Thanks in part to the mass media of radio and television, the pre-bourgeois conception of the world — essentially the traditional religious conception — was destroyed there in a short space of time. It was displaced by the spirit of the culture industry. Nevertheless, the a priori of the essentially bourgeois concept of culture — autonomy — had no time to develop. Consciousness goes immediately from one heteronomy to another. The authority of the Bible is replaced by the authority of the stadium, television and "true stories" which claim to be literal, actual, on this on side of the productive imagination.[3] What is alarming about this, which in Hitler's Third Reich turned out to be far more drastic than merely a socio-cultural phenomenon, has not been recognized. To confront this phenomenon would be an urgent task for a socially reflective cultural politics, even though it is hardly the central issue with respect to pseudo-culture. At least for now, the signature of pseudo-culture remains bourgeois, as does the idea of culture itself. It bears the physiognomy of the lower middle class. Culture has not simply disappeared from this class; it drags on by dint of the

3. See Karl-Guenther Gröneisen, "Landbevölkerung im Kraftfeld der Stadt," in *Gemeindestudie des Instituts für sozialwissenschaftliche Forschung*, Monographie 2 (Darmstadt: E. Roether Verlag, 1952).

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interests even of those who do not participate in the privilege of culture. A radio rapair man or car mechanic, who is uneducated in traditional terms, needs a great deal of knowledge and skill to implement his trade, skills which can only be acquired with mathematical and scientific knowledge. As Thorstein Veblen has observed, the so-called under-class knows more than academic arrogance is willing to admit.

The phenomenology of bourgeois consciousness alone is not sufficient to explain the new situation. Contrary to bourgeois society's conception of itself, at the beginning of high capitalism the proletariat was socially extraterritorial, an object of production relations, a subject only as producer. The early proletarians were dispossessed petit bourgeoisie, artisans and peasants situated outside bourgeois culture. This situation was prolonged for some time by the pressure of living conditions, extremely long working hours, and the wretched wages in the decades described in [Marx'] *Capital* and [Engels'] *The Situation of the Working Class in England*. However, whereas nothing changed decisively in the economic foundation of relations, in the antagonism between economic power and powerlessness and in the objectively set limits of culture, ideology was fundamentally transformed. Idealogy long concealed the division, even for those who had to carry the burden. During the last hundred years they have been integrated into the web of the system. The sociological term for this is integration. Subjectively, in terms of consciousness, social boundaries have become increasingly tenuous in Europe, as has long been the case in the US. The masses are supplied with cultural goods from any number of sources. These help to keep them in line — neutralized, petrified. For them, nothing is too precious or too expensive. This works inasmuch as the contents of culture, via the market mechanism, are adapted to the consciousness of those who were excluded from the privilege of culture — a culture which was once supposed to change them. The process is objectively determined, not brought about *mala fide*, because the social structure and its dynamics prevent cultural goods from becoming vital, from being appropriated by neophytes, as their very concept suggests. What is probably most innocuous is the fact that millions of people who formerly were unacquainted with cultural goods are now inundated with them and are hardly prepared to deal with them psychologically. However, the conditions of material production themselves have difficulty in dealing with that type of experience to which the traditional contents of culture were attuned and for which they were best suited. Consequently, culture itself, despite all its support, is being crippled. In many cases, as something formally impractical and stubbornly futile, it stands in the way of progress. Whoever still knows what a poem

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is will have difficulty finding a well-paid position as a copywriter. The constantly expanding difference between social power and powerlessness denies to the powerless (and tendentially already to the powerful) the real preconditions of autonomy which the concept of culture ideologically preserves. Consequently, the consciousness of different classes is becoming standardized, even though, according to the most recent studies, classes resemble each other less than they appeared to some years ago. In any event, one cannot speak with objective structural specificity but only in terms of the social psychology of standardized middle-class society, if need be with reference to fluctuations in its composition. But both the following also appear subjectively: the veil of integration appears especially in categories of consumption; and the persistent dichotomy is nevertheless evident wherever the subjects run up against the firmly established antagonisms of vested interests. Then the underlying population is "realistic"; the others think of themselves as spokesmen for ideals.[4] Because integration is ideology, it remains similarly fragile.

All this certainly goes well beyond the mark. But theoretical frameworks characteristically do not entirely agree with the results of research and set forth opposing views. They venture out too far; in the language of social research, they tend to falsify generalizations. Irrespective of administrative and commercial needs, the development of empirical sociological methods was necessary for precisely this reason. Nevertheless, speculation would not be possible without venturing too far. Without the unavoidable moment of untruth in theory, speculation would resign itself to the mere abbreviation of facts, which it would leave unconceptualized — pre-scientific in the true sense of that term. Certainly there is convincing empirical evidence to refute the thesis of the withering of culture as well as of the socialization of pseudo-culture and its hold on the masses. Even today the stratum of middle class white-collar workers is the model of pseudo-culture, and its effects on the real lower classes can obviously be proved with as little confidence as can the standardization of consciousness in general. Judged by the situation here and now, the contention that pseudo-culture is universal is simplistic and exaggerated. However, the concept does not purport to include all peoples and classes indiscriminately but rather to give shape to a tendency, to sketch the physiognomy of a spirit which also determines the signature of an age, even if its validity is still very limited both quantitatively and qualitatively.

4. Cf. "Zum politischen Bewußtsein ausgewählter Gruppen der deutschen Bevölkerung," unpublished manuscript in the Institute for Social Research (Frankfurt a/M: 1957).

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The categories of pseudo-culture may still fail to embrace numerous workers, petty civil servants and other groups, not the least because class consciousness, though diminishing, is still a vital force. From the side of production, however, these categories are so powerful, their establishment conforms so well to established interests, they characterize so adequately the ubiquitous forms in which culture appears, that they deserve to be represented even if this does not square with statistics. If none other than the traditional concept of culture, which itself can be criticized, will serve as the antithesis of socialized pseudo-culture, this expresses a situation which disposes of nothing better than this albeit dubious criterion because it has missed its chance. The restitution of the past is not desirable, nor has the critique of it diminished in the least. Nothing has befallen the objective spirit today that was not already there in the heyday of liberalism or was not at least recompensed for an old debt. But what now transpires in the realm of culture is not seen except in its older form, however ideological it may be, because petrified relations have prevented the possibility of spirit transcending conventional culture. The measure of the bad new is only the bad old. The moment it is condemned it shows conciliatory colors and shrinks into insignificance. For this reason alone, and not by any *laudatio temporis acti*, does one return to traditional culture.

In the concept of pseudo-culture the commodified, reified content of culture survives at the expense of its truth content and its vital relation to living subjects. This roughly accords with its definition. The fact that today the term pseudo-culture has acquired the same antiquated and arrogant reputation as folk culture does not prove that the phenomenon has disappeared but rather that its counter concept, culture itself, which alone makes it comprehensible, is no longer present. For better or worse, only isolated individuals who have not been absorbed completely in the melting pot, or professional groups who celebrate themselves as elites, still participate in culture. However, the culture industry in the widest sense — everything jargon certifies as mass media — perpetuates this state of affairs by exploiting it. By its own admission, it is culture for those whom it once spurned, integration for those who were otherwise not integrated — pseudo-culture is its spirit: the spirit of failed identification. The rude jokes about parvenus, who mix up foreign words, are so persistent because through such confusions the beliefs of all those who laugh at them are confirmed. Identification should be successful in such people, but its failure is as unavoidable as the attempt. For once they are enlightened, the effective idea that they are free and autonomous and need not be deceived — no matter how unconscious it may be in all

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individuals in capitalist societies — demands that they at least behave as if it were true. This only appears possible to them in what they perceive as spirit: objectively disintegrating culture. The totalitarian form of pseudo-culture is to be explained not merely by social and psychological factors but just as much by what is potentially better — that the condition of consciousness postulated in bourgeois society suggests the possibility of real autonomy in every life, one whose realization is denied because of the way life is arranged and diverted into mere ideology. This identification must fail because, in a society which has lost virtually all of its qualities as a result of the domination of the exchange principle, the individual gains neither form nor structure, the elements which enable him to cultivate himself in the most literal sense of the term. But on the other hand the power of totality over the individual has reached such proportions that he must himself reflect the formlessness without. What was once organized in such a way that subjects, however problematically, might have attained form is gone. Yet they remain unfree; their life with others on an individual basis is not at first articulated as genuine interaction. The fatal word "ideal," (*Leitbild*), in which the impossibility of determining what it means is inscribed, expresses this. It is evidence of the suffering that arises from the absence of a social and spiritual cosmos which Hegel would call "substantial," one without violence, unquestionably binding for the individual, a true totality reconciled with the individual. At the same time, however, this notion is also evidence of the desire to establish something substantial arbitrarily (as did Nietzsche with his new tablets). The linguistic sensorium is already too exhausted to be aware of the fact that the act of violence toward which the desire for normative ideals tends is just what gives the lie to the very substantiality for which one grasps. This characteristic of fascism has survived it. But it reaches back to the idea of culture itself. Culture is inherently structured in antinomies. It presupposes autonomy and freedom, but until today it has referred to structures of an order which is pregiven with respect to each individual, which is heteronomous in a certain sense and, therefore, untenable. Only within this order is the individual able to cultivate himself. Thus the moment culture exists, it already ceases to exist. Teleologically its decay is determined from the start.

The truly effective ideals today are the conglomeration of ideological conceptions which insinuate themselves between subjects and reality and filter reality. They are engaged affectively in such a way that they cannot be removed easily by the *ratio*. Pseudo-culture embraces them all. Lack of culture, understood as mere naiveté, the mere lack of knowledge, allowed an immediate relation to objects that could be raised to

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critical consciousness by virtue of its potential for skepticism, wit and irony — qualities which flourish in those who are not fully domesticated. Pseudo-culture wants this to fail. Tradition was essentially one among many other social conditions of culture. According to [Werner] Sombart and Max Weber, it was essentially pre-bourgeois, incompatible with bourgeois rationality. However, the loss of tradition through the disenchantment of the world ultimately leads to a condition of culturelessness (*Bilderlosigkeit*), to a sclerosis of the spirit through its instrumentalization — which is incompatible with culture from the start. Nothing keeps the spirit in a vital relation to ideas any longer. Authority mediated, more often badly than well, between tradition and subjects. Following Freud, just as autonomy, the ego principle, arises from identification with the father figure — whereas the categories deriving from this identification are directed against the irrationality of family relations — so culture is socially developed. School reforms, whose humane necessity no one questions, have eliminated out-moded authority. However, they have also weakened the already waning dedication to and internalization of the spiritual which is necessary for freedom. Up to the present day, Freedom — the inverse of compulsion — has been shrinking and compulsion expanding, but as yet no compulsion to freedom has recommended itself. Who among those who have attended a Gymnasium has not complained about memorizing Schiller's poems and Horace's odes? Who would not be irritated by older relatives willfully and unceasingly reciting such things from memory? Hardly anyone today could be forced into memorization. The most non-intellectual people are already covered over by what is non-intellectual, mechanical in it. Through such processes the spirit is deprived of some of that sustenance with which it cultivates itself. Belief in the spirit may have secularized the theological spirit into something without substance. If the so-called younger generation spurns it, this generation pays it back for what it has wrought from the beginning. But where this belief — itself an ideology — is lacking, an even worse ideology is looming. In German a "spiritual person" has always had a highly offensive connotation, but that characterization is dying out. And the putative realism that is emerging to take its place is quite ready to accommodate spiritual existence and to swallow whatever is crammed into it. Since there are hardly any young people today who dream of becoming great poets or composers, it can probably be said — with a degree of exaggeration — that there are no great economic theoreticians among them, and that ultimately there will be no true political spontaneity. Culture needed protection from the onslaughts of the external world, it needed a certain regard for the individual subject, perhaps

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even the fragmentation of socialization. Hölderlin wrote: "I have understood the language of the gods; never have I understood the language of men." One hundred fifty years later a young man thinking the same way would be ridiculed or handed over to the benevolent care of a psychiatrist on account of his autism. However, if the distinction between the language of the gods — the idea of a true language, one having to do with substantive matters — and the practical language of communication is no longer perceived, then culture is lost. There is no doubt that German culture in its greatest era did not completely include the knowledge of contemporary philosophy, which between 1790 and 1830 was itself reserved for the few. But that philosophy was still immanent in culture. It led such seminal figures as [Wilhelm von] Humboldt and [Friedrich] Schleiermacher to their conceptions of the nature of culture. The core of speculative idealism, the doctrine of the objective character of spirit which goes beyond the simple psychological individual, was the principle of culture — the principle of something not immediately useful to someone else, something not measured immediately in terms of its purpose. The irrevocable collapse of the metaphysics of spirit buried culture beneath it. This is no isolated occurrence in intellectual history; it is a social fact. Spirit is affected by the fact that it and its objectification as culture are no longer awaited; it thus proves itself to be something social. The generally accepted desideratum of a culture, which can be vouchsafed and verified where possible through examinations, is nothing more than the shadow of such anticipation. Verifiable culture has itself become a norm, a kind of qualification and, as such, is no more culture than the general education which has degenerated into the prattle of salesmen. The moment of spontaneity, as it was finally glorified in the theories of Bergson and the novels of Proust and which characterized culture as something distinct from the mechanisms of the social domination of nature, is destroyed in the glaring light of verifiability. Contrary to the false maxim from *Faust*, culture cannot be bought; its purchase and a bad buy are the same thing. However, by denying that it can be bought, culture becomes entangled in the network of privilege — only those who already have it need not buy and possess it. Thus it succumbs to the dialectic of freedom and unfreedom. As the legacy of the old unfreedom, it had to decline; but as long as the conditions of unfreedom objectively persist, culture is impossible as mere subjective freedom.

In the US — the most advanced bourgeois country, behind which all others hobble along — the culturelessness (*Bilderlosigkeit*) of existence can be observed in its most extreme form as the social condition of universal pseudo-culture. Religious imagery, which endows what exists with the

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colors of something greater than what exists, has faded; the irrational *imagines* of feudalism, which developed with those of religion, are gone. What survives archaic folklore, which was already synthetic, cannot be changed. However, a self-regulating existence was itself not meaningful; demystified, it remained prosaic also in a negative sense. A life modeled in every respect according to the principle of equivalence is exhausted in reproducing itself, in the repetition of movement. Its demands on the individual are made with such strength and severity that he can neither hold his own against them as someone in control of his life nor experience them as part of his human purpose. Consequently, bleak existence — the soul which does not aspire to anything higher in life — requires substitute images for the divine which it obtains through pseudo-culture. The disparity of its elements, which has increased to the point of becoming chaotic, the renunciation of full rationality even by particular *membra disiecta*, led an impoverished consciousness to resort to magic.[5] The mass media fashioned a substitute mythology out of the Wild West, which no one confronts with the facts of a not so distant past. Film stars, pop tunes and lyrics offer similarly calculated effects. Words, which the so-called man on the street — himself already mythological — can scarcely understand, become popular for that very reason. One hit song says of a young woman, "You are a rhapsody," without anyone stopping to think how uncomplimentary a comparison this is — a comparison with a potpourri of amorphous compositional techniques. Occasionally the well-groomed, often strikingly beautiful features of women are deciphered as the pictographic writing system of pseudo-culture — faces like those of Montespan or Lady Hamilton, which are incapable of saying anything original but which repeat mechanically what is expected of them in any given situation to make the best impression. This has been observed by Evelyn Waugh. Pseudo-culture has long since ceased to confine itself simply to the intellect; it has distorted sensuous life as well. It answers the psycho-dynamic question of how the subject is able to persevere in the face of a rationality which has itself become irrational.

Whereas the original elements of social refinement inherent in culture are quashed (culture and refinement being essentially the same), a surrogate takes their place. The perennial status society absorbs what is left of culture and transforms it into a status symbol. This was never foreign to bourgeois culture, which has always been inclined to separate

5. Cf. among others, Ernst Lichtenstein in *Handbuch für Sozialkunde* (Berlin and Munich, 1955), Section A II, pp. 1ff.

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its so-called representatives — formerly those who could speak Latin — from the people, as Schopenhauer once naively observed. However, behind the walls of its privilege only those human forces which were oriented to praxis and thus promised a state of affairs without privilege were able to flourish. Such a dialectic of culture has been brought to a halt through its social integration, because it has been brought under direct control. Pseudo-culture is spirit overcome by fetishism of commodities. Just as the social character of the shop steward and the old-style sales clerk have been overrun by the culture of white collar workers (even with Karl Kraus, who sought to discover the origins of this process, there is talk of the aesthetic dictatorship of the sales clerk), so the venerable profit motives of culture have overgrown the whole culture like a fungus. Since it seldom allows anything which deviates from it to pass through, only this totalitarian culture is on the forefront of the new. With progressive integration, pseudo-culture rids itself of its naiveté; nothing but the culture of white collar workers liquidated the sales clerk. It also clutches the spirit which it once was and remolds it according to its own needs. In so doing pseudo-culture not only participates parasitically in its momentarily undiminished prestige, but deprives it of its critical distance and potential, ultimately even of its prestige. A model for this is the fate of the so-called classics. Throughout the 19th century in Germany the cultural canon at least consisted of collected editions of these works, even though they were already controlled by publishing interests of the time and subject to dubious social methods of selection. Schiller was the perfect example of culture stored in aphorisms. But even this attenuated authority has vanished. It is said that the younger generation scarcely recognizes any longer the names of many golden classics whose immortality was once rashly proclaimed. The energy has been drained from the ideas which were once concerned with, and breathed life into, culture. These ideas appeal to people neither as knowledge (as such they appear to remain behind science) nor as norms. For example, freedom and humanity have lost their power to enlighten within the totality — a closed system of compulsion — because it is no longer possible to model one's life after them. Even their aesthetic imperative no longer survives — intellectual creations which embody freedom and humanity are largely seen as flimsy, verbose and ideological. Cultural goods have fallen into decay not only for the educated but also in and of themselves, in terms of their truth value. This truth value is not, as idealism would have it, a timeless invariable but rather, like people themselve, it has its life in a sociohistorical dynamic and can die.

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Even manifest progress — the general rise in the standard of living accompanying the development of material productive forces — is not entirely a blessing for intellectual life. The discrepancies which result from the fact that the superstructure is revolutionized at a slower pace than the base have intensified to the detriment of consciousness. Pseudo-culture parasitically colonizes the cultural lag. The fact that culture benefits from technology and higher standards of living, that everyone is affected by what is cultural, is the pseudo-democratic ideology of the salesman — "music goes into mass production" — and no less so because one calls people who have doubts about it snobbish. This ideology can be refuted by empirical social research. Thus in the USA, in an ingenious study of two comparison groups listening to so-called serious music, one in live performance and the other only on radio, Edward Suchmann demonstrated that the latter reacted more shallowly and with less understanding than the former. Just as serious music virtually was transformed into light music for radio listeners, so in general intellectual creations, which people pounce on with a suddenness Kierkegaard equated with the demonic, are frozen into cultural goods. The reception of such goods does not conform to immanent criteria but only to the criterion which the consumer believes he has derived from it. However, the demand for culture as a desire to be counted among the upper class, from which one is subjectively less differentiated anyhow, increases with the standard of living. As a response to this desire, large sectors of society are encouraged to pretend they have a culture which in fact they do not. What was once reserved for the snobs and the *nouveau riche* has become the spirit of the people. A greater part of the production of the culture (*Kultur*) industry lives from folk culture and this in turn creates the need for such pseudo-cultural artifacts as biographical novels, which report on cultural matters and simultaneously produce cheap and trivial identifications, the sellout of whole disciplines like archeology or bacteriology, which are distorted into crude stimulants and give the reader the impression that he is *au courant*. The foolishness on which the culture market (*Kulturmarkt*) depends is reproduced and strengthened by this. Under prevailing conditions, the blithe dissemination of culture (*Bildung*) is exactly the same as its destruction.

Doubts about the popularization of culture and its unqualified value as a means of enlightenment under current conditions give way to the suspicions of reactionaries. For example, one cannot oppose the publication in paperback of important philosophical texts of the past with the argument that their content will suffer by this form and function of

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presentation without making oneself look like the ridiculous spokesperson for an historically condemned idea of culture which allows a few dinosaurs able to attest to its greatness and grandeur. In fact, it would be senseless to try to secrete these texts in small and costly editions at a time when the state of technology and the economic interests in mass production converge. Out of fear of the inevitable, however, one should not blind oneself to what this implies and above all to how it conflicts with the immanent demand for the democratization of culture itself. In the process of the dissemination of culture, the meaning of what is disseminated is changed in many ways which are contrary to what one prides oneself on disseminating. Only a linear and continuous view of intellectual progress recklessly glosses over the qualitative content of a culture which has been socialized into pseudo-culture. By contrast, the dialectical conception recognizes the ambiguity of progress within the repressive totality. The fact that antagonisms multiply signifies that all particular advances in the consciousness of freedom also participate in the persistence of unfreedom. Light is shed on the whole sphere by a touchingly deceptive passage in the old treasury of social democratic ideas quoted by [Walter] Benjamin as a motto for his "Theses on the Philosophy of History": "May our task daily become clearer and the people daily more clever."[6] Just as there are no approximate values in art — a mediocre performance of a musical work in no way realizes its content and is wholly inadequate to the task — so the same may be said about the intellectual experience as a whole. What is half-understood and half-experienced is not the first stage of culture but its mortal enemy. Elements of culture which enter consciousness without becoming part of its continuity are transformed into toxic substances; they tend to become superstitions even if they criticize superstition as such. A case in point is that senior handyman who, in his yearning for something higher, took on the *Critique of Pure Reason* and ended in astrology, ostensibly because only there was he able to reconcile the moral laws within us with the stars above us. Unassimilated elements of culture fortify that reification of consciousness against which culture should protect us. For someone who comes across Spinoza's *Ethics* unprepared to understand them in terms of the Cartesian doctrine of substance and the difficulties of mediating between *res cogitans* and *res extensa*, the definitions with which the book begins thus assume the character of something dogmatically

6. Josef Dietzgen, "Die Religion der Sozialdemokratie," in Walter Benjamin, *Schriftem*, Vol. 1 (Frankfurt a/M: Suhrkamp Verlag, 1955), p. 502.

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opaque and abstrusely arbitrary. Only when the concept and the dynamic of rationalism are understood in relation to the role of definitions does this character disappear. Anyone unprepared will neither know what these definitions should be nor what inherently justifies them. He will either reject them as gibberish and thereby easily adopt a superior attitude toward philosophy as a whole or, by resorting to the authority of the famous name, swallow them all and thus become authoritarian, just as citations of so-called great thinkers wandering like ghosts in ideological manuscripts reinforce the trivial opinions of dilettantes. By themselves, historical introductions and commentaries which advance the subject are scarcely able to provide the proper contextual understanding of definitions to anyone approaching Spinoza's *Ethics* unless they are already familiar with the specific problematic he addresses. The result is bewilderment and obscurantism; but above all, a blind relation to cultural products (*Kulturprodukten*) improperly understood which cripples even the spirit that these products, conceived as living things, were to help express. However, this flagrantly contradicts the intention of a philosophy which, as the ultimate source of knowledge, rightly or wrongly recognized only what is immediately ascertainable. What holds true of all philosophers, holds true, by analogy, for the whole of art. The idea that genius and greatness are immediately self-evident and comprehensible — the remains of an aesthetic based on the cult of genius — occludes the fact that nothing which can be called culture (*Bildung*) can be grasped without prerequisites.

One extreme may clarify the matter. A book widely distributed in the US[7] is geared unabashedly toward a pseudo-cultural desire — the appearance of being cultured by being able to recognize immediately the undisputed standard works of symphonic literature in the music business. The method is this: main themes of symphonies, even single motifs, are given words that can be sung and impressed upon the memory like the musical phrases of popular songs. Thus the main theme of Beethoven's Fifth Symphony is sung to the words: "I am your Fate, come, let me in!"; the main theme of the Ninth Symphony is broken into parts because its opening is not singable enough and only the concluding motif is put into words; "Stand! The mighty ninth is now at hand!" However, Spaeth devotes the following lines to the marginal theme from Tchaikovsky's *Symphonie Pathétique* which was once often freely parodied:

7. Sigmund Spaeth, *Great Symphonies: How to Recognize and Remember Them* (New York: Garden City Publishers, 1936).

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This music has a less pathetic strain,
it sounds more sane and not so full of pain.
Sorrow is ended, grief may be mended,
It seems Tchaikovsky will be calm again!

Much may be learned about unassuming, average pseudo-culture in this explosion of barbarism, which certainly has damaged the musical consciousness of millions of people. The idiotic words sung have nothing to do with the content but attach themselves like leeches to the effect of symphonic works, testifying conclusively to the fetishism of pseudo-culture in relation to its objects. The objectivity of a work of art is distorted through its personalization — a portrait of Tchaikovsky would be a passionate movement which subsides in a lyrical episode. Even though Tchaikovsky himself in fact already advanced the culture industry, his music is distilled from the comprehension of a raving half-mad musician who nevertheless also had his quiet moments, according to the cliché of the long-haired Slav. Moreover, the themes in symphonic music are not what is most important, they are for the most part merely material. The popularization, which shifts attention to the themes, diverts it from what is essential — the structural course of the music as a whole — to the anatomical, the bits and pieces of individual melodies. Thus what aids the dissemination sabotages what is disseminated. Ultimately, however (and this is an aspect which hardly deserves a milder epithet than satanic), it will scarcely be possible for people who have memorized the themes with such abominable words ever to forget them and to listen to the music as it really is. Cultural information disguised as the love of art reveals itself to be destructive. However, even the most innocent paperback at least potentially has something of Spaeth in it. No enlightenment deserves the name if it is too intimidated to undertake reflections of this type.

The mechanism which promotes the prestige of a culture no longer experienced and scarcely even present any longer, as well as the abortive identification with it, is subjective, a collective narcissism.[8] Pseudo-culture has made the private realm available to all. Collective narcissism amounts to this: people compensate for social powerlessness, which goes to the root of individual drives and conscious motives as well as guilt feelings because they are not what they should be and do not do what they should do according to their self-image. They compensate by turning themselves either in fact or imagination into members of something

8. Cf. Theodor W. Adorno, "Aberglaube aus zweiter Hand," in Adorno, *Schriften*, Vol. 8, *Soziologische Schriften*, *op. cit.*, pp. 155ff.

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higher and more encompassing to which they attribute qualities which they themselves lack and from which they profit by vicarious participation. The idea of culture is predestined for this because (similar to a racial myth) it asks of the individual only the bare minimum whereby collective narcissism is gratified; enrollment in a better school, sometimes even the pretention of being from a good family, are already sufficient. The attitude which links pseudo-culture and collective narcissism is that of being in charge, of having a say, of conducting oneself and considering oneself as an expert. The phenomenology of language in the administered world that Karl Korn has outlined recently, especially the "language of show-offs," is frankly the ontology of pseudo-culture. The linguistic monstrosities he interpreted are the stigma of abortive identifications with the objective spirit in it. In order to continue to satisfy the demands society makes on people, culture is reduced to the identifying marks of social immanence and integration; it becomes something exchangeable, something usable. The comparatively innocent lie about the unity of culture and property with which one defended the class system in Wilhelminian Prussia became the crazy truth. Thereby, however, the spirit of pseudo-culture was pledged to conformity. Not only is the ferment of criticism and opposition withdrawn from it (culture in the 18th century stood up to the established powers), but the affirmation and intellectual duplication of what exists anyway become pseudo-culture's own content, proof of its legitimacy. Criticism, however, degenerates into mere cleverness which is deceived by nothing and fools its adversaries — a means of getting on.

The pseudo-cultured person practices self-preservation without a self. He can no longer realize subjectivity as bourgeois theory would define it — in the sense of experience and ideas. This undermines the possibility of culture subjectively just as much as everything is opposed to it objectively. Experience — the continuity of consciousness in which everything not present survives, in which practice and association establish tradition in the individual — is replaced by the selective, disconnected, interchangeable and ephemeral state of being informed which, as one can already observe, will promptly be cancelled by other information. The *temps durée* — the cohesive life relatively in tune with itself which leads to judgment — is replaced by a declaritive "that is," lacking any judgment, similar to the way passengers on express trains call out the names of ball-bearing or cement factories or the new barracks in every place rapidly disappearing into the distance, ready to respond to every unasked question inconsequentially. Pseudo-culture is an impediment

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to time,[9] to memory, through which alone that synthesis of experiences which once signified culture entered consciousness. Proud of being very busy and even overworked, the pseudo-cultured person quite reasonably also prides himself on his bad memory. Perhaps this is the reason why so much is made of time in contemporary philosophical ideology, since so much of it is wasted and one should conserve it. However, the much touted concretism and the abstractionism which generally allows only the individual to be considered a representative of the universal, to be called by that name, complement each other. The concept [of time] is eluded by ordaining its subsumption under whatever ready-made clichés are drawn from dialectical revisions. These clichés reveal their pernicious power in totalitarian systems; even their form is the isolating, piercing, incontestable "that is." Since pseudo-culture nevertheless clings to traditional categories which it no longer satisfies, the new form of consciousness is unconsciously aware of its own deformation. For this reason, pseudo-culture is irritable and angry; being informed about everything is also at the same time a desire to know better. Ressentiment is one slogan of pseudo-culture that has seen better days. However, pseudo-culture is itself the sphere of pure and simple ressentiment of which it accuses all those who still retain a spark of self-awareness. The destructive potential of pseudo-culture is unmistakable beneath the superficiality of the dominant conformism. While it fetishistically seizes upon cultural goods (*Kulturgüter*) as property, it is poised the whole time to smash them.

Pseudo-culture is associated with paranoia — the persecution complex. The conspicuous affinity of a state of consciousness like pseudo-culture with unconscious psychotic processes would nonetheless remain a puzzling, pre-established harmony if the systems of delusion did not themselves also have their objective social function apart from their place in the psychic economy of the individual. They compensate for that essential insight which pseudo-culture obstructs. Such systems furnish whoever is deprived of the continuity of judgment and experience with schemata for coping with reality. These latter certainly do not approximate reality but compensate for the anxiety about what cannot be grasped. Consumers of psychotic ready-mades feel sheltered by all those similarly isolated, who are bound together in their solitude by a common delusion under conditions of radical social alienation. As soon as it transcends immediate interests, the narcissistic gratification of leading a

9. Cf. Theodor W. Adorno, "Über Statik und Dynamik als soziologische Kategorien," in *Schriften*, Vol. 8, *op. cit.*, p. 230.

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secret life and belonging to a select group exempts one from reality testing, which according to Freud was the foremost task of the old ego. The delusional systems of pseudo-culture are permanent shortcircuits. One might have wished to explain the collective tendency to such forms of consciousness, which [Georges] Sorel and [Alfred] Rosenberg both christened myths, by the fact that contemporary social reality, which is inherently difficult, complex and incomprehensible, leads to the same shortcircuits. But even this apparently objective deduction falls short. Owing to the abolition of countless mechanisms connected with the market, as well as the elimination of the random play of forces in many sectors, society has become more transparent than ever before. If insight depended on nothing but the functional state of society, then it would be possible for the proverbial ditch digger to understand the way it works today. What is produced objectively is much more the subjective condition which makes the objectively possible insight impossible. The sense of having no contact with the power of the existent, of nevertheless having to capitulate to it, also cripples the driving forces of understanding. What is presented to the subject as immutable becomes fetishized, inscrutable and misunderstood. People think in terms of the binary opposition between those predestined to be saved and those predestined to be damned. The pseudo-cultured person counts himself among the saved; among the damned is everything which might call his reign — and everything connected with it — into question. Passing judgment on enemies who are often self-proclaimed or only construed as such, that very moment of brutality, which the breakdown of culture (*Kultur*) objectively spawns in those who boast of their culture, breaks through. Pseudo-culture is defensive; it avoids the contacts which might reveal something of its dubious nature. It is not complexity but rather alienation which gives rise to the psychotic forms of reaction to the social — psychosis itself is objective alienation appropriated and internalized by the subject. Pseudo-culture's collective systems of delusion reconcile the irreconcilable — they articulate alienation, sanction it, as if it were a deep dark mystery, and apparently bring it closer, substituting a deceptive experience for the one which has disintegrated. For the pseudo-cultured, everything mediated turns into immediacy, even the all-powerful past. Thus the tendency toward personalization — objective relations are traced to individuals or salvation is expected from them. The delusional cult of personalization develops together with the depersonalization of the world. On the other hand, as alienated consciousness, pseudo-culture has no immediate relation to anything; it is always fixated on its own view of things. Its attitude is that of taking something for granted; even

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for the wildest conjectures, it always sounds as if it is saying, "What, you don't know that?" Critical consciousness is crippled, reduced to a turbid disposition to look behind the scenes. [David] Riesman has described this as an example of "getting the inside dope." Nevertheless, the dominant responses and theorems of pseudo-culture remain irrational, which explains its sympathies for irrationalisms of every stripe, especially for the depraved ones, for the glorification of nature and the soul. It is at once intellectually pretentious and barbarically anti-intellectual. The elective affinity between pseudo-culture and the petit bourgeoisie is obvious. However, as pseudo-culture is socialized, its pathetic tendencies begin to infect the whole of society; this corresponds to the establishment of the petit bourgeoisie as the dominant social character. The social connection between delusion and pseudo-culture has scarcely been broached by social science, but it has, however, been seen by a literature which has never been given its due. The entire physiognomy of pseudo-culture is found in [Peter] Benedix's description of the destructive mother-in-law in his old-fashioned comedy, *Der Störenfried* (The Troublemaker). Sociology is probably capable of elaborating its whole ontology — a structural relation of all its basic categories, which are derived from social conditions at the same time. The pseudo-cultured person, who affirms culture even as he is excluded from it, avails himself of a second culture *sui generis* — an unofficial culture which in the meantime admittedly celebrates its true encounter with that culture prepared by the culture industry — the world of books not put in the bookcase but actually read, even though they appear to be as lacking in history and as insensitive to historical catastrophes as the unconscious itself. Like the unconscious, pseudo-culture tends to be unresponsive, which makes it more difficult to correct pedagogically. Only a deep psychological approach could counteract this tendency in such away as to prevent its ossification in the early developmental stages and to strengthen critical reflection.

Approaches of this kind nevertheless soon run into trouble. Familiarity with the social disorder (*Unwesen*) of pseudo-culture confirms that what is produced and reproduced by objective conditions, which keep the sphere of consciousness in a state of powerlessness, cannot be changed in isolation. Within the contradictory totality, the question of culture (*Bildung*) also becomes entangled in an antinomy. Continuing to talk about culture (*Kultur*) is naive and ideological in view of the tendency to liquidate it, which manifests itself objectively and beyond all the limits of political systems. Moreover, culture cannot be raised *in abstracto* to the level of a norm or a so-called value because assertions of this type cut through the connection everything cultural has to the realization by a

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self-controlled self-consciousness of a life worth living and contribute to that neutralization of the spirit which destroys culture (*Bildung*). Conversely, however, even social theory and a praxis somehow oriented to it cannot take the side of the stronger tendency and, with a courage born of despair, push, shove what is falling, making the liquidation of culture its own, for then it would be directly and jointly responsible for the relapse into barbarism. Among the temptations of a spirit which has lost faith in itself, not the least harmless is what in psychology Anna Freud has called identification with the aggressor[10] — to subscribe submissively to what is supposedly inevitable. At present the critical intellectual succeeds less well than one who uses the intellect, or what he confuses with it, for obfuscation. Equally conceited, however, is the illusion that anyone — and by this one always means oneself — might be exempt from the tendency to socialized pseudo-culture. What may quite justifiably be called the progress of consciousness — the illusion-free critical insight into the nature of things as they really are — proceeds apace with the loss of culture (*Bildungsverlust*): common sense and traditional culture are incompatible. It is not by chance that, when Marx and Engels conceived the critical theory of society, those spheres which were the primary concern of the concept of culture — philosophy and art — had become crude and primitive. Such simplification has become incompatible with the social aim of ultimately finding a way out of barbarism (in the meantime it supports naked terror in the East). Progressive consciousness — which allows those who have it the capacity to resist a commodified culture (*Kultur*) that has degenerated into property — is not only above but simultaneously below culture (*Bildung*). The new quality which emerges is always both more and less than that which flounders. An alloy of barbarism is mixed like an enzyme with progress itself, with the category of the new — one purifies it. What one should aspire to is a situation which does not glorify culture (*Kultur*), conserve its remains or destroy it, but rather transcends the antithesis of culture (*Bildung*) and the lack of it, of culture (*Kultur*) and nature. However, this demands not only that the absolutization of culture be broken but also that the conception of it as something dependent, as a simple function of praxis and mere instructions for it, not be hypostatized, not be channeled into undialectical theses. The insight that what has arisen is not reducible to its origin and cannot be equated with that from which it came, is also related to that spirit which is so easily tempted to make itself the origin.

10. Cf. Adorno, "Aberglaube aus zweiter Hand," *op. cit.*, p. 168.

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One might well respond to someone who makes this self-aggrandizing claim by making reference to his dependence on the real conditions of life and to his inseparability from them, ultimately to the fact that he is an organic being. However, were the intellect utterly reduced to that dependency and were it to resign itself to the role of mere necessity, then the opposite would come to mind. To this extent, the concern with culture (*Bildung*) at the present historical moment is justified. It is not only the untruth but the truth of the intellect that it separated itself from the real conditions of life and made itself independent of them; no binding knowledge, no successful work of art can be refuted by referring to its social genesis. If people once developed the mind in order to sustain life, their spiritual creations, which existed for no other reason, no longer provide any nourishment. The irrefutable independence of the spirit *vis-à-vis* society, the promise of freedom, is itself as much a social fact as the unity of both. If that independence is simply denied, then the spirit is suppressed and makes an ideology of what exists no less than when it ideologically usurps absoluteness. Beyond the fetishism of culture (*Kultur*), what may rightly be called cultural is solely what realizes itself by virtue of the integrity of its own spiritual form, intercedes only via this integrity, reacts to society but not in direct conformity with its laws. The spirit's power to do so comes precisely from what was once culture (*Bildung*). In those instances where spirit does not dissolve into undifferentiated identity with society, and yet still only obeys social laws, the following anachronism is timely — to hold fast to culture even after society has deprived it of a foundation. For the only way spirit can possibly survive is through critical reflection on pseudo-culture, for which culture is essential.

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The Concept of Nomos: Introduction to Schmitt's "Appropriation/Distribution/Production"

G. L. Ulmen

Although Schmitt was not a professional historian, his last major work, *Der Nomos der Erde* (1950), generalizes about the last four centuries of European and world history.[1] While his essay on *The Concept of the Political* was an attempt "to frame theoretically an immense problem,"[2] *Der Nomos*

1. All references will be to Carl Schmitt, *Der Nomos der Erde im Völkerrecht des Jus Publicum Europaeum*, Second Edition (Berlin: Duncker & Humblot, 1974). In a letter to the Spanish jurist Alfonso Otero, Schmitt indicated his reservations: "We know that all history is the history of law. Yet which faculty or department in the contemporary university respects this *compositum* — this composite of two substantive disciplines? Does it deal primarily with jurisprudence or with history? Is it a mixture reached through painstaking deliberation or a complete fusion? Or are we dealing with an interdisciplinary syndrome? These are disturbing questions which can conceal political tensions. I speak from experience. My own discipline is not the history of law but rather constitutional and international law, both of which are so burdened with history that their complete scholarly representation is transformed into a branch of the history of law. Without intensive historical research and historical examples, i.e., without case law, they cannot be made understandable." See Carl Schmitt, "Carta a Alfonso Otero," in *Homenaje al Profesor Alfonso Otero* (Santiago de Compostela: Universidad de Santiago de Compostela, 1981), pp. 13-16. Here Schmitt refers to his lecture "The Plight of European Jurisprudence," which claims that "history obtains its concrete evidence from the history of law." See Carl Schmitt, "The Plight of European Jurisprudence," in *Telos* 83 (Spring 1990), pp. 95-70. Cf. also in the same issue, Paul Piccone and G. L. Ulmen, "Schmitt's 'Testament' and the Future of Europe," pp. 3-34.

2. See the 1932 "Postscript" and the 1936 "Preface" to Carl Schmitt, *Der Begriff des Politischen: Text von 1932 mit einem Vorwort und drei Corollarien* (Berlin: Duncker & Humblot, 1963), pp. 96 and 16 respectively. See also Carl Schmitt, *The Concept of the Political*, George Schwab trans. (New Brunswick: Rutgers University Press, 1976).

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der Erde traces the historical transformation of the political. Both are addressed "to specialists on the *Jus Publicum Europaeum*," both are "strongly didactic."[3] As in "The Plight of European Jurisprudence," Schmitt's concern in *Der Nomos der Erde* is with "the existential question of jurisprudence itself, which today will be eroded between theology and technology if the basis of its present character is not maintained in a way that is both conceptually clear and historically correct."[4] The point is to explain the historical genesis of a new *nomos* of the earth: "The former Eurocentric order of international law is declining and with it the old *nomos* of the earth. It arose out of a legendary and unexpected discovery of a New World, an unrepeatable historical event. One can only think of a modern recurrence of such an event in fantastic parables, such as that men on their way to the moon might discover a new and completely unknown planet which could be exploited freely and used to alleviate struggles on earth. But the question of a new *nomos* of the earth will not be answered with such fantasies; nor by further scientific discoveries. Once again we must turn our attention to the elemental orders of our concrete terrestrial existence. Here we seek to discover the meaning of the earth. That is the hazardous undertaking of this book and the pretext of our work."[5] Schmitt begins with five corollaries on *nomos*.[6] Other corollaries were published separately.[7] All serve to complement the argument and elaborate the central thesis of *Der Nomos der Erde*. The seventh corollary, "Appropriation/Distribution/Production," is particularly significant because it relates *nomos* to the contemporary world: it addresses the problem of the transition from a liberal *Rechtsstaat* to a *Sozialstaat* and raises the problem of a new *nomos* of the earth.[8]

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3. See the 1963 Preface to Schmitt, *Der Begriff des Politischen*, *op. cit.*, p. 13.
4. Schmitt, *Der Nomos der Erde*, *op.cit.*, p. 6.
5. *Ibid.*
6. 1) "Law as the Unity of Order and Orientation"; 2) "Pre-Global International Law"; 3) "Comment on the International Law of the Christian Middle Ages; *Respublica Christiana as a Spatial Order / The Christian Empire as a Restrainer of the Antichrist (Kat-Echon) / Empire, Caesarism, Tyranny*"; 4) "On the Significance of the Word *Nomos*: *Nomos and Law / Nomos as Sovereign / Nomos in Homer / Nomos as the Fundamental Process of Spatial Division*"; 5) "Land Appropriation as the Constitutive Process of International Law."
7. The sixth corollary, "Zur Phonetik des Wortes Raum," was published along with the first corollary in "Recht und Raum," in *Tymbos für Wilhelm Ahlmann: Ein Gedenkbuch*, edited by his friends (Berlin: Walter de Gruyter Verlag, 1951), pp. 241-244; the eighth corollary is "Nomos-Nahme-Name," in Siegfried Behn, ed., *Der beständige Aufbruch: Festschrift für Erich Przywara* (Nuremberg: Glock und Lutz Verlag, 1957), pp. 92-105.
8. Schmitt's seventh corollary first appeared in *Gemeinschaft und Politik: Zeitschrift für soziale und politische Gestalt*, Vol. 1, No. 2 (November 1953), pp. 18-27.

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Corollaries of Nomos

To speak of a *nomos* of the earth means to consider the earth as a whole. Before the age of discovery, at least before the 15th century, there was no global concept of the earth. For all practical purposes the world ended where the oceans began. Thus the first *nomos* of the earth was not a global conception but rather what the Greeks called *oekumene*. All law was land-bound. In Schmitt's view, law is the unity of order and orientation (or location). All great original formulations of laws occurred on land. They were a result of land appropriations, whether the founding of cities, military occupations, the establishment of colonies, etc. In historical hindsight, land appropriation has a categorical character — it is the presupposition of internal and external, mine and thine, private law and public law, *imperium* and *dominium*. Land appropriation is accordingly the prototype of a legal order because it creates the most radical legal title. In the second and truly global *nomos* of the earth, based on a particular relation between fixed land and open sea that constituted the *Jus Publicum Europaeum* and the Eurocentric international law, the history of international law was also one of land appropriations.

Schmitt's first corollary focuses on the original land-bound character of law, while the second contrasts pre-global international law with that based on the *Jus Publicum Europaeum*, which lasted from the end of the 16th into the 20th century. It arose from the dissolution of empire and papacy, which is why the third corollary is devoted to international law during the Christian Middle Ages and continuity with the Roman Empire,[9] and the fifth corollary is devoted to land appropriation as the constitution of international law. The sixth corollary implicitly relates *nomos* to the primal German word *Raum*, emphasizing the spatial dimension of the former. Rejecting generalizations of *Raum*, which have led to many banalities, Schmitt specifically dismisses Bergson's reading in *Lebensphilosophie* and quotes Nietzsche to the effect that: "*Raum* is a word with big shoulders that guards against nothingness. Where *Raum* is, there also is *Sein*." In these words the corollary to *nomos* is self-evident. The following will concentrate on the fourth and eighth corollaries which elaborates themes broached in the seventh corollary.

The fourth corollary is devoted to the Greek word for the first and

9. The decisive historical concept of the continuity between the Roman Empire and the Christian Middle Ages was the *Katechon* — the restrainer of the Antichrist, which signified the historical authority of the term "empire." It was thought that only the Roman Empire and its Christian successor could hold back the overwhelming power of evil. The unity of the *Respublica Christiana* lay in the unity of *imperium* and *sacerdotium*.

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most fundamental measure of all land appropriation — the first spatial division and distribution — *nomos*, which in its original sense Schmitt found best suited to focus on the fundamental process of order and orientation. But in his view the historical distortion of the original meaning of *nomos* is equally significant. It serves to demonstrate the contemporary relevance of *nomos*. Noting that Triepel criticized the Reichstag's legislation of law with the statement "*Gesetz* is not sacrosanct, only *Recht*; *Gesetz* is subordinate to *Recht*,"[10] Schmitt countered that the antithesis was not between *Gesetz* and *Recht* but rather between a properly understood concept of *Gesetz* and a hopeless formalism which considers everything in the legislative sphere to be law. Indicative of this situation was the fact that the misuse of legislative power had been characterized as "nomomachy" (rule of law),[11] whereas in fact what was missing was *nomos* properly understood. In other words, what was missing was the rational minimum of a true *Gesetz*, i.e., the failure to recognize the general character of a true norm (*Rechtsnorm*). Once this general character is abandoned, all idioms of normativity become inherently contradictory because every arbitrary mandate is as valid as a norm.

To illustrate the relation between order and orientation,[12] Schmitt cautions against equating *nomos* with *Gesetz*, or norm or any similar expression. In this regard, he notes an attempt to define *nomos* as *Lebensgesetz* (law of life), which he rejects not only because of the word *Gesetz* but also because of the biological connection between law and life. One of the reasons why he returned to the original meaning of *nomos* was to defend the integrity of law against legal positivism and the confusion brought about by 19th century jurisprudence, while distinguishing it from the immediate problem of a new *nomos* of the earth.[13] Since most jurists of

10. Cf. Heinrich Triepel, "Streitigkeiten zwischen Reich und Ländern," in *Festgabe der Berliner Juristischen Fakultät für Wilhelm Kahl zum Doktorjubiläum am 19. April 1923* (Tübingen: J. C. B. Mohr [Paul Siebeck], 1923), p. 93, quoted in Carl Schmitt, *Verfassungslehre* (1928), Fifth Edition (Berlin: Duncker & Humblot, 1970), p. 142; referred to in Schmitt, *Der Nomos der Erde*, *op.cit.*, p. 36n.

11. Schmitt says the expression "nomomachy" stems from James Goldschmidt in *Juristische Wochenschrift* (1944), pp. 245ff, although this journal ceased publication in 1939 and was replaced by *Deutsches Recht*. Elsewhere Schmitt observes that a word like nomocracy (government in accordance with a system of law) still has meaning, whereas one can hardly speak of a nomarchy (a class of lawyers).

12. Cf. Carl Schmitt, "Justissima tellus: Das Recht als Einheit von Ordnung und Ortung," in *Universitas: Zeitschrift für Wissenschaft, Kunst und Literatur*, Vol. 6, No. 3 (1951), pp. 283-290.

13. Elsewhere Schmitt observes that the positivistic concept of law in the natural sciences is even more confused. Scientific positivism knows no origin, only causes. Consequently, the relation between order and orientation is suspended (*aufgehoben*).

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his day spoke the language of legal positivism and philosophers tended to follow the language of jurists, Schmitt indicates how the unfortunate word *Gesetz* tended to mislead the discussion of *nomos*. After decades of misuse of the legality of the centralized *Gestzesstaat*, the concept of legitimacy appeared to be the only corrective. Legality became "the functional mode of a state bureaucracy," which operates by prescribing prescriptions (*Setzung von Setzungen*) from a centralized authority. The more centralized this authority becomes, the more intense the compulsion to make laws whose hyper-formality is matched by their lack of content. Schmitt employs *nomos* as an antidote to this positivistic understanding of *Gesetz* — the law of the legalitarian *Gesetzesstaat*.[14]

This legalitarian dilemma is the result of the destruction of the original meaning of *nomos* as land appropriation, which occurred with the Sophists. But already with Plato *nomos* acquired the meaning of a *schedon* — a mere rule.[15] Plato's *nomoi* (laws) exhibit the utopian character of modern laws: they have little to do with fortuitous *nomoi* and even less with politics. By contrast, Aristotle distinguished the concrete order as a whole — the *nomos* — from the various *nomoi*. Schmitt found something of the original relation between order and orientation still recognizable in Aristotle, meaning that *nomos* is still a component of a concrete spatial dimension. Moreover, Aristotle claimed that *nomos* was antithetical to *Psephisma* and other designations having only the character of decrees. Unlike in modern ideologies of the rule of law, in Aristotle the rule of *nomos* recognizes a common principle and is consistent with the fair division of property.[16]

He acknowledges the merits of claims made by philosophers such as Heinrich Rickert and Wilhelm Windelband that the sciences should be divided into natural and social. This distinction was meant to defend the social sciences against the absolutization of the natural sciences at the end of the 19th century and was an attempt to rescue historical thinking. He also recognizes, however, that in the process the word *nomos* was relegated to the natural sciences, which led Windelband to consider only the natural sciences as "nomo-thetic." This was part of the 19th century functionalization of *nomos* into *Gesetz*.

14 Twice in his discussion of the meaning of *nomos*, Schmitt refers to Weber's definition of legality as the "chance to compel obedience," which he also cites in his discussion of "super-legality," where he emphasizes that "State legality creates for itself a political surplus value . . . ." Cf. Carl Schmitt, "The Legal World Revolution," in *Telos* 72 (Summer 1987), pp. 74f. Cf. also G. L. Ulmen, *Politischer Mehrwert: Eine Studie über Max Weber und Carl Schmitt* (Weinheim: VCH, Acta humaniora, 1991).

15. Cf. Edith Hamilton and Huntington Cairns eds, *The Collected Dialogues of Plato, Including the Letters* (New York: Pantheon Books, Bollingen Series LXXI, 1961), "Statesman," p. 1063, §294b.

16. Schmitt observes that it is necessary to read the appropriate passages in Aristotle's *Politics*. Cf. Richard McKeon, ed., *The Basic Works of Aristotle* (New York: Random House, 1968), pp. 1208-1213, §1290-1292e.

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By contraposing *nomos* and *physis* the Sophists contributed to the destruction of the original meaning of *nomos*, which was thereby reduced from a fact of life (*Sein*) to a prescribed ought (*Sollen*). It thus became indistinguishable from *psephisma* and other designations for arbitrary prescriptions. Originally, *nomos* is the division of land in a particular order as well as the resulting *Gestalt* of political, social and religious organization which together constitute a spatially concrete unity. In land appropriation, in the founding of a city or a colony, *nomos* becomes visible when a family, group or people becomes historically settled and create a political order in a particular location. According to Schmitt, all human *nomoi* are "nourished by" a godlike *nomos*, whatever it may be, meaning any *nomos* can grow like plans and property. A wall might also be called a *nomos* if it is based on sacred orientations. Such metaphors are meaningful, since they refer to the submerged image of the "source" of law discussed by Savigny.[17] But one should not lose sight of the fact that *nomos* is related to a constitutive spatial ordering.

The eighth corollary deals with power. Commenting on Przywara's book *Humanitas*.[18] Schmitt focuses on the third tendency of power to visibility and publicity, in response to the first tendency to secrecy and obscurity, and remarks that Plato found a median between monarchy and democracy in the *polis*, i.e., in a world in which the memory of the *oikos* (household) and *oikonomie* remains strong. In the more than 3,000 year history of the concept of *nomos*, the most important event was the transition from the nomadic to the sedentary age — to the *Oikos*. Moreover, in the numerous uses of the word *nomos*, none has been more frequent than *oiko-nomia* and *oiko-nomos*. Significant here is that these linkages developed even prior to the *polis*.

In the 18th century "scientific" discipline of political economy, the extension of the *nomos* to the *polis* retained its linguistic relation to the *oikos* — there was no *polito-nomie* but rather *oiko-nomie*. Obviously, says Schmitt, there is a special relation between *nomos* and the means of subsistence, i.e., the economy. The nomadic age was overcome with the joining of *oikos* and *nomos*. In his *Politeia* Plato distinguishes between the *nomeus* (shepherd) and the political man. The shepherd stood higher above his flock than did the political man above those he

17. Cf. Schmitt, "The Plight of European Jurisprudence," *op. cit.*, especially the section titled "Savigny as an Alternative Paradigm," pp. 54ff.

18. Schmitt, "Nomos-Nahme-Name," in *Der beständige Aufbruch; Festshrift für Erich Przywara*, *op.cit.*, p. 92. Cf. also Erich Przywara, *Humanitas: Der Mensch gestern und morgen* (Nuremberg: Glock und Lutz Verlag, 1952).

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governed. Once these two positions were joined, the relation of economics to politics became problematic, reaching crisis proportions with the transformation of the community into an administrative and then into a managerial state concerned with providing for everyone. In this connection, Schmitt mentions Friedrich Engels' utopian promise that one day the power of men over men will cease and there will be only production and consumption because "things will govern themselves." Presumably this would make superfluous every aristo*cracy* and demo*cracy*, mon*archy* and olig*archy* — all anthropologically-based power deriving from appropriation as well as all theologically-based power ordained by God. But in Schmitt's view no *nomos* can exist without either one or the other.

The third tendency of power obtains only in the rejection of anonymity and obscurity. Here Schmitt's argument that subjectivity is fundamental to Western civilization is related to Adam Smith and Karl Marx. "As soon as a true name appears, the purely economic *nomos* is exhausted in economy and administration disappears. The beehive has no names." The allusion is to Mandeville's *The Fable of the Bees* and the relation between Engels' claim that "things will govern themselves" and the rationalistic claim of the French Revolution that reason will rule "in the name of the law." But law has no name any more than has reason or humanity. The reification of impersonal laws governing themselves is an illusion in both economics and politics. "What began as the tidings of the Goddess of Reason ended with the gangster slogan of Bertolt Brecht."[19] A name presupposes precisely that subjectivity threatened by the objectivity presumed by a world in which "things govern themselves" and where anonymous power-holders rule "in the name of the law." In such a situation, the project of Western civilization is also aborted because it loses its dynamic: "As soon as there is no longer any horizon other than the *status quo*, normativism and positivism become plausible and obvious."[20]

The Seventh Corollary

Schmitt's seventh corollary promises more than it delivers. Nevertheless, it poses *nomos* as a contemporary problem. It addresses the

19. *Ibid.*, p. 401.

20. *Ibid.*, p. 97. Here Schmitt's analysis parallels Husserl's "crisis of European science," as well as the Hegelian-Marxist theme of reification. See Piccone and Ulmen, "Schmitt's 'Testament' . . ." *op. cit.*, pp. 21-25. See also "Schmitt's 'Testament' and the Future of Europe: Four Exchanges," in *Telos* 85 (Fall 1990), pp. 93-148.

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positivistic prejudices against thinking about the totality while rejecting pseudo-universality. Specifically, by reexamining the concept of *nomos* Schmitt analyzes the decline of the state (which in his view was the crowning achievement of Western rationalism, the core institution of the *nomos* of the earth within the context of the international law of the *Jus Publicum Europaeum*)."World history is a history of progress in the means and methods of appropriation: from the land appropriations of nomadic and agricultural-feudal times to the sea appropriations of the 16th/17th centuries, to the industrial appropriations of the industrial-technical age and its distinction between developed and undeveloped areas, to the present-day appropriations of air and space. Today's odium of colonialism, encountered by Europeans, is the odium of appropriation."[21]

Schmitt relates the odium of appropriation to the transformation of the political state into a social agency no longer able to function as the cornerstone of a *nomos* of the earth. The constitutional aspect of the problem of *nomos* becomes crucial as soon as the most important function of the state consists in the distribution or redistribution of the social product. That is the case in industrialized countries with an administrative state responsible for the welfare of the masses.[22] Before such a state distributes or redistributes the social product, it must first *appropriate* it. Those who distribute and redistribute will be real powerholders and such positions are themselves appropriated and distributed. "Even here the question of appropriation has not disappeared."[23]

This is the problem of the transition from a *Rechtsstaat* to a *Sozialstaat* and of the fact that one state can only have one type of basic rights. In general, a *Rechtsstaat* recognizes only negative rights, especially freedom and property, whereas a *Sozialstaat* makes claim to positive state enforcement. Negative freedom — freedom *from* the state — is not mediated by the state or any other institution. Thus it is a misunderstanding to regard the right to freedom or property as a claim to administration. In principle, individual rights are unlimited, whereas every legal norm, every state intervention, must be limited and calculable. Freedom "according to the provisions of the law" is no freedom at all. Consequently, a

21. Cf. the notes Schmitt appended to his 1953 article in *Verfassungsrechtliche Aufsätze*, *op. cit.*, p. 503.

22. Here Schmitt cites Ernst Forsthoff, "Begriff und Wesen des sozialen Rechtsstaates," in *Veröffentlichungen der Vereinigung der Deutschen Staatsrechtslehrer*, Vol. 12 (1954), pp. 8-36.

23. Here Schmitt quotes a sentence from the Christian Democratic journal, *Civis*, No. 31 (July 1957), to the effect that "[a] constitution whose core is to constitute a procedural order for the distribution of the social product is no longer a constitution."

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state built not on negative individual rights but on positive citizen claims is not a *Rechtsstaat* but a *Sozialstaat*. Indicative of the present problem is the instrumentalization of basic rights.

Obviously, a *Rechtsstaat* which distinguishes between state and society cannot have the same type of basic rights as a *Sozialstaat*, which is responsible for the welfare of the masses.[24] Significant here is Schmitt's understanding of *nomos* in terms of property and its relation to expropriation.[25] The question of appropriation and expropriation is one of property rights.[26] For Schmitt, property and expropriation are structurally related in every legal and economic order. Expropriation is not intervention or a violation of the law but rather a legal institution. Consequently, just as property relations in a *Rechtsstaat* are different from those in a *Sozialstaat*, so is expropriation. Since every constitution that guarantees property rights must at the same time provide for a possible exception to the rule, it must also develop its own institutional procedure of expropriation. Thus a true constitutional guarantee obtains only when there is due process whereby specific negations of property are a reaffirmation of property rights and do not imply a violation of the total order of property upon which the concept of expropriation is based.

Recently, the constitutional guarantee and extension of expropriation has been seen as strengthening property rights. In reality, however, it has destroyed the means of resistance and accelerated a general functionalization because it has not created any constitutional guarantee against inflation. More to the point, no "compensation" is sufficient

24. Cf. note appended to Carl Schmitt, "Grundrechte und Grundpflichten" (1932), in *Verfassungsrechtliche Aufsätze*, *op. cit.*, pp. 230-231.

25. A case in point is the 1949 West German Constitution, which emphasizes individual rights, while guaranteeing a social *Rechtsstaat*. Consequently, every decision concerning basic rights, such as the guarantee of property, becomes problematic. In this connection, Schmitt agrees with Forsthoff that "*Sozialstaat* and *Rechtsstaat* should not be merged on the constitutional level. The program of the *Sozialstaat* is legislation and administration." Schmitt adds: "If the formula of a social *Rechtsstaat* changes the constitutional guarantee of property and promotes the functionalization of property through immanent social obligations, the question arises as to how long a clear distinction between the constitutional level and the administrative level can be maintained. . . . In any case, the constitutional guarantees are only realized in the *hic Rhodus, hic salta* of the social *Rechtsstaat*." See Schmitt, *Verfassungsrechtliche Aufsätze*, *op. cit.*, 230f. Cf. Ernst Forsthoff, "Begriff und Wesen des sozialen Rechtsstaates," in *Veröffentlichungen der Vereinigen der Deutschen Staatsrechtslehrer*, Vol. 12 (1954), pp. 8-36. On the difference between basic rights in a liberal *Rechtsstaat* and a *Sozialstaat*, see Georges Burdeau, "La démocratie gouvernante, son assise social et sa philosophie politique," in *Traité de science politique*, Vol. VI (Paris: Librairie generale de droit et de jurisprudence, 1956), p. 374.

26. On the constitutional guarantee of property, see Carl Schmitt, "Die Auflösung des Enteignungsbegriffs" (1929) in *Verfassungsrechtliche Aufsäze*, *op. cit.*, pp. 110-123.

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for the dissolution of property into a general property right because what is destroyed is not only landed and liquid property but the idea of a spatial relation between house, home and family — the link between property and tradition — which was still the meaning of the prior constitutional guarantee.[27] The functionalization of property transforms the greater power of resistance of *demesne*, i.e., direct ownership, into its opposite. Whereas the spatial context, public visibility and concrete immovability of *demesne* formerly constituted personal security, it now becomes no more certain than any other property right which can be detached and adjusted by the state through taxation and other social priorities. Functionalization means the desubstantiation of property.

In Schmitt's view, the functionalization of property is consistent with that same value neutralization which turned democracy into the *Weltanschauung* of a fundamental relativism. What is lost through legal positivism, especially the theory of constitutional changes through legislation, is the awareness that legality is an essential part of Western rationalism and as such a form of legitimacy rather than its opposite. According to Schmitt, this blindness should not be attributed only to the limitations of a positivistic and professional isolation. Rather, it is much more the expression of the legislative optimism of the preceding epoch, which considered law not as a means of stabilization but as a means of pursuing reforms and progressive development. Direct constitutional enforcement — judicial activism — paved the way for the transition from the legislative to the managerial or administrative state.[28]

Once legality becomes the functional mode of the state bureaucracy, law transcends the *Rechtsstaat*'s classical separation of state and society and paves the way for the development of a *Sozialstaat*. Here the political premiums accruing to the legal holding of state power — super-legality — becomes crucial. In countries in which the state bureaucracy still did not have the monopoly of the discharge of public tasks, such as England and the US, the transformation of law into a functional mode of public officials was in Schmitt's view hardly conceivable, as was the

27. Subjective rights are only constitutional rights — not basic rights in the sense of the fundamental principle of the separation of powers, characteristic of the liberal *Rechtsstaat*. They are not prior to the state but obtain within it — they are institutions, and an institution cannot presuppose rights as given. Institutional guarantees are not basic rights. Cf. "Institutionelle Garantien sind von Grundrechten zu unterscheiden," in Schmitt, *Verfassungslehre*, *op. cit.*, pp. 170-182.

28. Cf. Carl Schmitt, "Rechtsstaatlicher Verfassungsvollzug" (1952), in Schmitt, *Verfassungsrechtliche Aufsätze*, *op. cit.*, pp. 452-488.

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transformation in the meaning of the word "legality."[29] But today this functionalization has proceeded apace in both England and the US, where legalitarianism has become widespread. Thus the transformation of law into legality was more than a specific German problem. In France, the motherland of state legality and codification, the sharpest formulations of a purely formalistic legality opposed to substantive law and historical legitimacy set a standard since the middle of the 19th century. In any case, says Schmitt, legal positivism reigns supreme, and this means the triumph of the normative power of the given.

Given this functionalization of law, what are the prospects for a new *nomos* of the earth?[30] In Schmitt's view, the desire for a well-functioning unity of the world corresponds to today's predominantly technocratic *Weltanschauung*. If the fate of humanity is technology rather than politics, then the problem of global unity has already been solved. With the development of the Cold War and the bipolar divison of the world, the earlier division of land and sea and the equilibrium inherent in it had been destroyed. Modern technology had appropriated the elemental character of the sea, adding a third dimension, air, which had also become a battleground. In such a situation, what could be the new *nomos* of the earth? Schmitt foresaw three possibilities. The first was that one of the superpowers would defeat the other. Presumably, this would be consistent with the technical view of the world in which the immediate duality was only the penultimate stage prior to the ultimate unification of the world. The second possibility would be the restoration of the former *Nomos* of the earth. The domination of the sea once held by England would be complemented by a domination of the air, which would only be possible for the US. This new and greater "island" would guarantee world equilibrium. Such an eventuality had tradition and custom on its side, but Schmitt thought a third possibility more realistic. It would also be based on an equilibrium, but not of one hegemonic power controlling the sea and the air. The new *nomos* of the earth would most likely be constituted of a number of independent *Grossräume*. This would signal the breakthrough to a new pluralism — a balance of forces which could pave the way for a new international law. There would be many analogies to the preceding Eurocentric international law whose structure

29. Cf. Carl Schmitt, "Das Problem der Legalität" (1950), in Schmitt, *Verfassungsrechtliche Aufsätze*, *op. cit.*, pp. 440-451.

30. Cf. Carl Schmitt, "Die Einheit der Welt," in *Merkur*, Vol. VI, No. 1 (January 1952), pp. 1-11; and "Der neue Nomos der Erde," in *Gemeinschaft und Politik*, Vol. 3, No. 1 (1955), pp. 7-10.

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obtained in a balance of several powers. Its framework was pluralistic, but it presupposed a community and a unity. The new *nomos* of the earth would not be one world but a pluralistic community in unity.[31]

Translating Nomos

In "The Plight of European Jurisprudence" Schmitt recalls a dispute with Johannes Popitz concerning the relation between jurisprudence and philosophy that has bearing on the precise understanding of *nomos*.[32] Popitz had argued that concepts such as person, reciprocity, etc., were of purely philosophical origin, and as an example he cited the influence of Greek philosophy on Roman jurisprudence.[33] Schmitt disagreed and, in support of his counterclaim, quoted the Spanish editor of Cicero's *De legibus*, where Cicero translates the Greek *Nomos* with the Latin *lex*,[34] which is allegedly one of the greatest burdens that Western culture has had to bear since it reduced the original meaning of *nomos* to mere law and paved the way for all subsequent manipulations.

Were one to translate *Der Nomos der Erde* into English, it would not be understandable as *The Law of the Earth* but would have to be rendered as *The Order of the Earth*. It might be possible to shorten it to *World Order*, but this would miss the spatial dimension so essential to Schmitt's understanding of *nomos*. Since *nomos* is not a German but a Greek word, it would be best to title such a translation: *The Nomos of the Earth*. After all, Schmitt's means of addressing the constitutional crisis of the transition from a *Rechtsstaat* to a *Sozialstaat* and the attendant problem of legality

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31. Considering the new *nomos* of the earth, Alexandre Kojève coined the expression "bestowing capitalism." In Schmitt's notes to his seventh corollary he says that what Kojève had in mind was the modern, enlightened capitalism of Fordism, considered in terms of the increase in the buying power of workers and the industrial development of underdeveloped areas. This was something quite different from what Karl Marx had in mind when he spoke of "appropriating capitalism." Whatever the merits of Kojève's capitalism, Schmitt retorted: "Only a god who has created the world from nothing can give without taking, and then only in terms of this world which he has created from nothing."[36] Schmitt's point is clearly not to adopt a position for or against capitalism but rather to affirm the fundamental nature of the first meaning of *nomos*. Cf. Schmitt, *Verfassungsrechtliche Aufsätze*, *op. cit.*, pp. 503f.

32. Cf. Schmitt, in *Verfassungsrechtliche Aufsätze*, *op. cit.*, p. 427.

33. He was particularly impressed with Johannes Stroux' work emphasizing this point. See Werner Jaeger, ed., *Das Problem des Klassischen und die Antike: Acht Vorträge gehalten auf den Fachtagung der Klassischen Alterumswissenschaft zu Naumberg, 1930, von Johannes Stroux* (Leipzig: teubner Verlag, 1931). Cf. also Johannes Stroux, *Römische Rechtswissenschaft und Rhetorik* (Potsdam: E. Stichnote Verlag, 1949).

34. Alvaro Pérez-Peix d'Ors, *De la Guerra y de la Paz* (Madrid: Ediciones Rialp, 1954), p. 160. Cf. also Alvaro Pérez-Peix d'Ors, ed., Marcus Tullius Cicero, *Las leyes* (Madrid: Instituto de Estudios Politicos, 1953).

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and legitimacy is a radical reconceptualization of precisely this word *nomos*. Such a reconceptualization presupposes a method he calls the "sociology of juridical concepts," which traces a concept back to its historical root, i.e., the "deeper simplicity of organic concepts."

To translate *nomos* one has to find English equivalents for *nehmen*, *teilen* and *weiden*. Schmitt himself notes this difficulty, specifically with respect to *nehmen* and *weiden*, in a Spanish translation of his seventh corollary.[35] This difficulty is obvious in the present translation. The Spanish version also translates *nehmen* as appropriation, but renders *weiden* as pasturage, which is technically more correct than production. In this English version, the clarification of Schmitt's meaning takes precedence over literal translation. Here it should be emphasized that Schmitt's meaning is itself a historical-juridical interpretation of core concepts. At the beginning of his article he makes a point of distinguishing between the views of philologists and those of historians and jurists, and invites "the philologists to follow us for a moment." Many philologists would not agree with Schmitt's interpretation of *nomos* and many more would probably not be willing to follow him even for a moment. The same may be said of many historians and jurists. Nevertheless, Schmitt's interpretation transcends philology and even the technical objections of historians and jurists to address the most critical issues of our time. It is political theory *par excellence*.

34. "Appropiacion, Particion, Apacentamiento," Translated by Antonio Truyol y Serra in *Boletin Informativo del Seminario de Derecho Politico* (1955).

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*Appropriation/Distribution/Production: Toward a Proper Formulation of Basic Questions of any Social and Economic Order (1953)**

Carl Schmitt

The scholarly treatment of questions of social life is divided into juridical, economic, sociological and other areas of specialization. The need for a comprehensive consideration acknowledging the unity of actual relations is becoming more evident. For this reason, so is the scholarly problem — to find immediately intelligible basic categories which allow a proper formulation of questions common to various disciplines.

The present effort to deal with this problem will proceed as follows: to apprehend the original meaning of the word *nomos* and then to ascertain simple and authentic categories at once basic and inclusive. The examples of their application to doctrines and systems of social science outlined below should serve only as a concise indication of their usefulness. The general application should help overcome the limitations of specialization without denying the value of achievements in the various disciplines; it is something other than an interpolation using philosophical generalities or general provisions of natural law.

Here we need not undertake a detailed philological analysis of *nomos*.[1]

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1. [Tr. The following note was added by Schmitt to the "Postscript" to his article when it was republished in 1973, *op. cit.*, p. 502.] Reference to the Greek word *Nomos*

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There is already an excellent philological study of the antithesis of *nomos* and *physis* by Felix Heinimann.[2] It goes so far in the direction of modern disciplinary abstractions that it defines *nomos* as "a term valid for a group of living beings" and in this way links it with the modern concept of "value" and a very specific normativism. We are prepared to learn from philologists, but we would like to make the original meaning of *nomos* relevant to social problems and we invite philologists to follow us for a moment.[3] Unlike philologists, jurists and historians usually translate *nomos* as law or, to distinguish it from written law, as tradition or custom. Here we seek the simplest approach to determine the structure of various social orders and doctrines in all the specialized disciplines and to find the proper formulation of the questions with respect to the core of their ethic and their view of history.

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leads to philological discussions which are not the main point here but rather serve a legal and constitutional consideration. On the contrary, our legal and constitutional deliberations throw new light on the original meaning of *nomos* and the changes it underwent through sophism and normativism. This is also true of the meaning of the word in the Old and New Testaments. The antithesis of pre-exile and post-exile *nomos* now becomes fundamental. Cf. Martin Noth, *Das Gesetz im Pentateuch und andere Aufsätze in seinen Gesammelten Studien zum Alten Testament* (Munich: Christian Kaiser Verlag, 1957). Philos of Alexandria's assertion, repeated for years and still found in [Jean] Bodin's *Methodus* and [Blaise] Pascal's *Pensées*, namely that Homer never used the word *Nomos* (with the accent on the first syllable), now appears in a clearer light. Nevertheless, it should be emphasized that our legal and constitutional findings are not tied to the changing situations of disputed philological questions. This is also true of various philological opinions about whether the German word *nehmen* can be traced to the Greek root NEM. Cf. E. Laroche, *Histoire de la Racine NEM en Grec ancien* (Paris: Librairie Klincksieck, 1949). According to Heinimann, "the verb *nemein* [is] etymologically related to the German *nehmen*." See Felix Heinimann, *Nomos und Physis: Herkunft und Bedeutung einer Antithese im griechischen Denken des 5. Jahrhunderts* (Basel: F. Reinhart Verlag, 1945), p. 59.

2. Cf. Heinimann, *Nomos und Physis*, *ibid*.

3. This presentation of the three basic meanings of *nomos* is intellectually self-contained and self-evident. Those interested in its relation to the totality of my work in jurisprudence should consult my book *Der Nomos der Erde im Völkerrecht des Jus Publicum Europaeum* (1950) [Second Edition (Berlin: Duncker Humblot, 1974)], which contains a corollary on the meaning of the word *nomos*. I take this opportunity to add a further observation. In that corollary I inferred that the third verse of the beginning of the *Odyssey* reads as follows: "Many cities *astea* did he visit and many were the nations with whose customs *nomos* [or, according to the standard version: *noos*] he was acquainted." I prefer the version with *nomos* to the standard version common today, which substitutes the word *noos* for *nomos*. The reasons and perspectives which led me to prefer the version with *nomos* are outlined in the above-mentioned corollary. From a philological viewpoint, what seems to be the most impressive argument against this version is that the word *nomos* (with accent on the first syllable) is not used by Homer and consequently the *nomos* version would introduce a so-called *apax legomenon*, i.e., a unique and improbable word. I admit that a version which introduces such a word is somewhat unsatisfactory. But philologically the matter is in fact quite different. Even though

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I

The Greek noun *Nomos* comes from the Greek verb *nemein*.[4] Such nouns are *nomina actionis*, indicating an action as a process whose content is given through the verb. Which action and process is indicated by *nomos*? Quite obviously, it is the action and the process of *nemein*.

The first meaning of *nemein* is: *nehmen* [to take or appropriate]. The German word *nehmen* has the same linguistic root as the Greek *nemein*. If the noun *nomos* is a *nomen actionis* of *nemein*, then the first meaning of *nomos* indicates a *nehmen*. Just as *logos* [speech, word or reason] is the *nomen actionis* of *legein* [to gather or to speak] and *tropos* [a figure of speech or turn of phrase] of *trepein* [to turn], so *nomos* indicates an action and a process whose content exists in a *nemein*. Just as there is a linguistic relation between the Greek words *legein* and *logos* and the German words *sprechen* [to speak] and *Sprache* [language], so there is a linguistic relation between the Greek words *nemein* and *nomos* and the German words *nehmen* and *Nahme*. Thus the first meaning of *nomos* is appropriation.

The second meaning of *nemein* is: *teilen* [to divide or distribute]. Accordingly, the second meaning of *nomos* is the action and process of division and distribution — an *Ur-teil* [judgment][5] and its outcome. The first meaning of *nomos* as an appropriation has long been forgotten in jurisprudence. However, no major legal scholar[6] has forgotten this second meaning of *nomos* as a fundamental process of division and distribution,

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Homer does not use the word *nomos*, he nevertheless employs typical words in combination with *nomos: Amphinomos* [one who rules externally], *Ennomos* [one who rules internally], *Eyryvnomos* [one who rules over vast expanses]; even (which concerning the *astea* of Verse 3 of the *Odyssey* is especially meaningful) *Astynomos* [one who rules over a city]. All these proper names designate space and location: they indicate the concrete piece of land which the bearer of the name has acquired through appropriation and division. In such a context, proper names have more evidential validity than other words.

4. [Tr.] *Nemein* means to take, to allot or to assign. In Old English the word *niman* meant to take or to seize, while *nemel*, from which the word nimble derives, meant to seize quickly. From the Greek *Nomos* and *nemein* derive such English words as economy, antinomy, nomology, nomothetic, numismatic, etc. Of particular interest in this context is the derivation of the word nomad, since *Nomos* from the Greek *nome* meant capturing or grazing or wandering in search for pasture, which in German is the word *weiden*.

5. [Tr.] Schmitt here illustrates linguistically the relation between *Ur-teil*, meaning literally original part or division, and the German word for decision or judgment: *Urteil*.

6. [Tr. The following note was added in Schmitt's 1973 "Postscript" to his article, *op. cit.*, pp. 502]. If great philosophers like Thomas Aquinas and Thomas Hobbes recognized a primary division — a *divisio primaeva* — at the beginning of every legal order, then this perspective requires an elaboration: the division and distribution, i.e., the *suum cuique*, presuppose the appropriation of what is to be distributed, i.e., an *occupatio* or *appropriatio primaeva*. The continuity of a constitution is manifest as long as the regress to this primary appropriation is recognizable and recognized. In every extensive plan there

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of *divisio primaeva*. Thomas Hobbes' *Leviathan* (1651) contains a classic passage: "Seeing therefore the introduction of *propriety* is an effect of commonwealth, which can do nothing but by the person that represents it, it is the act only of the sovereign; and consisteth in the laws, which none can make that have not the sovereign power. And this they well knew of old, who called that *Nomos*, that is to say, *distribution*, which we call law; and defined justice, by *distributing* to every man *his own*."[7]

Thus belonging to the second meaning of *nomos* is law in the sense of *Anteil* [part or share], which eachgets, the *suum cuique*. Abstractly speaking, *nomos* is law and property, i.e., the part or share of goods. Concretely speaking, *Nomos* is, for example, the chicken every peasant living under a good king has in his pot every Sunday; the piece of land he cultivates as his property; the car every worker in the US has parked in front of his house.

The third meaning of *nemein* is: *weiden* [literally, pasturage]. This is the productive work which normally occurs with ownership. The commutative right of buying and selling in the market presupposes ownership as well as production deriving from the primary division: *divisio primaeva*. This third meaning of *nomos* obtains its content from the type and means of the production and manufacture of goods. The search for pasture and the tending of animals, which nomads like Abraham and Lot pursued; Cincinnatus plowing his field; the shoemaker Hans Sachs at work in his shop; the industrial work of Friederich von Krupp in his factory — all this is *nemein* in the third sense of our word: to pasture, to run a household, to use, to produce.[8]

II

Each of these three processes — appropriation, distribution, production — is part and parcel of the history of legal and social orders. In every stage of social life, in every economic order, in every period of legal history until now, things have somehow been appropriated, distributed

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is dividing and distributing, and what is divided and distributed has been first appropriated, be it land and property, the means of production, labor and jobs, the social product or the disposition of hard currency.

7. [Tr.] *The English Works of Thomas Hobbes*, Vol. 3, *Leviathan. or the Matter, Form, and Power of a Commonwealth: Ecclesiastical and Civil*, Second Reprint Edition (Aalen: Scientia Verlag, 1966), Part II, "Of Commonwealth," Chapter XXIV, "Of the Nutrition, and Procreation of a Commonwealth," p. 234.

8. The verb "use" (*nutzen*) is particularly significant because it embraces both production and consumption and the antithesis between them which has become so problematic. This should not be forgotten, even if in what follows we often speak only of production in order to simplify matters.

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and produced. Prior to every legal, economic and social order, prior to every legal, economic or social theory, there is this simple question: *Where and how was it appropriated? Where and how was it divided? Where and how was it produced?*

But the sequence of these processes is the major problem. It has often changed in accordance with how apperopriation, distribution and production are emphasized and evaluated both practically and morally in human consciousness. The sequence and evaluation follow changes in historical situations and general world history, methods of production and manufacture — even the image human beings have of themselves, of their world and of their historical situation.[9]

Up to the 18th century industrial revolution the order and sequence [of these processes] were unequivocal in that any appropriation was recognized as the precondition and foundation for any further distribution and production. Consequently, for centuries this remained the typical sequence. The land was the precondition of all subsequent economics and all subsequent law. Even Kant, in his legal theory, states as a truth of legal philosophy and natural law, that the first substantive acquisition can be none other than land.[10] This land, the foundation of all productivity, must some time have been appropriated by the legal predecessors of those who own it now. Thus at the beginning there is the "distributive law of mine and thine in terms of land for everyone" (Kant), i.e., *nomos* in the sense of *Nahme*. Concretely speaking: land appropriation. Only in this connection can there be any distribution and, beyond that, any subsequent cultivation.

The history of peoples with their migrations, colonizations, and conquests is a history of land appropriation. Either this is the appropriation of free land, with no claim to ownership, or the conquest of alien land which has been appropriated under legal titles of foreign-political warfare or by domestic political means such as the proscription, deprivation and forfeiture of newly divided land. Land appropriation is always the ultimate legal title for all further division and distribution and thus for all further production. It is what John Locke called the *radical title*. As a 17th century Englishman, what he had in mind was the land appropriation of England by William the Conqueror (1066).

All known and famous appropriations in history, all great conquests

9. Even the meek, who according to the Sermon on the Mount will inherit the earth (Matthew 5:5), will not obtain this ownership without land appropriation and distribution: the word for this type of ownership is *kleronomesousin* [literally, they will inherit].

10. Cf. the first corollary in Schmitt, *Der Nomos der Erde*, *op. cit.*, p. 18.

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— wars and occupations, colonizations, migrations and discoveries — indicate the fundamental precedence of appropriation over distribution and production. The biblical story of the appropriation of the land of Canaan by the Israelites (Deuteronomy 4:4 and Joshua 11:23) is a classic example. Understandably, once distribution is completed, division in an economic and social order that has arisen through such a land appropriation is emphasized more strongly than the original appropriation. The distribution remains stronger in memory than the appropriation, even though the latter was the precondition of the former and of the concrete allotment: the *kleros* [literally, the inheritor]. All concrete orders and legal relations within land so obtained derive first and foremost from distribution, through which the mine and thine of individual clans, families or groups as well as of solitary individuals is allotted. Understandably, within such a framework, only the end result of the distribution of appropriated land is usually considered, i.e., the concretely acquired allotment of land — the share (the *kleros*), but not the process and procedure of distribution as such. Distribution — the measures and procedures inherent in the process itself — is an important problem.

Before what has been appropriated through conquest, discovery, expropriation or some other way can be distributed, it must be numbered and weighed, as in the ancient sequence: numbered/weighed/divided. The mysterious writing on the wall in the Book of Daniel[11] — the often cited inscription MENE, TEKEL, UPHARSIN — expresses nothing other than the announcement of an immediate and present appropriation and distribution of the land (of the Chaldeans) by the Medes and the Persians.[12] When the numbering and weighing of what has been appropriated is finished, the process of distribution itself raises new and further questions. At all times, at the origin and foundation of a legal and economic order, this process has been decided by lot, i.e., divine providence, such as war and conquest. Plato adumbrated the classical model in *the Nomoi* (Laws).[13] An enlightenment

11. [Tr.] Daniel 5:25.

12. [Tr.] Daniel 5:26-28.."This is the interpretation of the thing: MENE; God hath numbered thy kingdom and finished it. TEKEL; Thou art weighed in the balances, and art found wanting. PERES; Thy kingdom is divided and given to the Medes and Persian." *The Holy Bible*, Edited by Rev. C. 1. Scofield (New York: Oxford University Press, 1945), p. 907.

13. "The legislator must take it as a general principle that there is a universal usefulness in the subdivisions and complications of numbers, whether these complications are exhibited in pure numbers, in lengths and depths, or again in musical notes and motions, whether of rectilinear ascent and descent or of revolution. All must be kept in view by the legislator in his injunction to all citizens, never, so far as they can help it

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thinker such as Hobbes could in cases such as the first division still claim that decision by lot assumes the character of natural law.[14]

III

One of the strongest impressions, maybe the most decisive, on the Russian immigrant and professional revolutionary Lenin during his sojourn in England was not the result of an economic analysis of production relations but of a late 19th century formulation of the international political program by the English imperialist Joseph Chamberlain. Lenin had heard Chamberlain's speeches and the deep impression Chamberlain made on him is clear in his pamphlet on imperialism.[15]

Imperialism, said Chamberlain, is the solution to the social question. At that time this meant a program of colonial expansion and the precedence of appropriation over distribution and production. Of course, it

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help it, to rest short of this numerical standardization. For alike in domestic and public life and in all the arts and crafts there is no other single branch of education which has the same potent efficacy as the theory of numbers, . . ." Cf. Edith Hamilton and Huntington Cairns, eds., *The Collected Dialogues of Plato, including the Letters* (New York: Pantheon Books, Bollingen Series LXXI, 1961), *Laws* V, 747-748, pp. 133.

14. [Tr.] "We said in the twelfth place, that it was a Law of Nature, *That where things could neither be divided, nor possess'd in common, they should be dispos'd by lot*, which is confirm'd as by the example of *Moses*, who by God's command, *Numb*. 34, divided the several parts of the land of promise unto the Tribes by *Lot*: So *Acts* 1:24, by the example of the Apostles, who receiv'd *Matthias*, before *Justus*, into their number, by casting *Lots*, and saying, *Thou Lord, who knowest the hearts of all men, shew whether of these two thou hast chosen, etc.* Prov. 16:33. *The lot is cast into the lappe, but the whole disposing thereof is of the Lord.* And which is the thirteenth Law, the Succession was due unto *Esau*, as being the First-born of *Isaac*, if himself had not sold it, (Gen. 25:30) or that the Father had not otherwise appointed." Thomas Hobbes, *De Cive*, the English version entitled in the first edition *Philosophical Rudiments Concerning Government and Society*, a critical edition by Howard Warrender (Oxford; Clarendon Press, 1983), Part I, *Liberty*, Ch. IV, 5 XV, pp. 81f.

[Schmitt] Even modern laws sometimes leave the decision to lot: not of course in the sense of a judgment but either as an escape from an otherwise inescapable situation, as a deliberate or unconscious form of lottery, or for other reasons whose consideration would be a separate problem for jurisprudence and social science. As merely a way out, a decision is made by lot, as in electoral determinations, when the votes (such as frequently found in the age of narrow majorities) tip the scales. Here one should not speak of the "chance" of lots, because a common democratic homogeneity is presupposed. The basis of this homogeneity is consent to every result of the democratic process of integration. By contrast, the inclusion of a paragraph to allow decisions by lot (in the federal law of January 7, 1952 concerning investment aid for commercial enterprises, *Bundesgesetzblatt* I, p. 7, § 32) has more the character of a lottery: the lot decides the procedure of how to distribute the shares. Ipsen rightly recognizes this as a regulation of the indemnity policy which is contrary to the constitution. See Hans Ipsen, "Rechtsfragen der Investitionshilfe," in *Archiv des öffentlichen Rechts*, Vol. 78 (1953), p. 330.

15. [Tr.] V. I. Lenin, *Imperialism, the Highest Stage of Capitalism: A Popular Outline* (New York: International Publishers, 1939).

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was consistent with the historical view of a politics that had lasted for centuries. In Lenin's view, this was precisely the historical death sentence of imperialism in general and English imperialism in particular. The reason was that this Anglo-Saxon imperialism was nothing more than theft and plunder, and the word plunder was already sufficient for a moral condemnation. For a socialist like Lenin, the idea that imperialistic expansion, i.e., appropriation — especially land appropriation — should precede distribution and production was in itself medieval, not to say atavistic, reactionary, opposed to progress and ultimately inhuman. In Lenin's moral outrage he had no difficulty finding in the arsenal of the progressivist as well as the Marxist philosophy of history several destructive arguments against such a reactionary opponent who would take something away from other people, while his own efforts only went in the direction of unchaining the powers of production and electrifying the earth.

Here is the point where socialism falls in with classical political economy and its liberalism. The core of liberalism, both as a science of society and a philosophy of history, is also concerned with the sequence of production and distribution. Progress and economic freedom consist in freeing productive powers, whereby such an increase in production and in the mass of consumer goods brings about an end to appropriation so that even distribution is no longer an independent problem. Apparently, technological progress leads to an unlimited increase in production. If, however, there is enough or even more than enough at hand, then it appears atavistic and repressive to the primitive right of plunder in an epoch of scarcity to view appropriation as the first, fundamental precondition of economic and social orders. When the standard of living continues to rise, distribution becomes increasingly easier and less precarious, and then appropriation ultimately becomes something not only immoral but even economically irrational and absurd.

Liberalism is a doctrine of freedom — freedom of economic production, freedom of the market and, above all, the queen of all economic freedoms, freedom of consumption. Liberalism also solves the social question with reference to increases in production and consumption, both of which ultimately should follow from economic freedom and economic laws. On the other hand, socialism poses the social question as such and wants to answer it as such. What, then, is the social question? In which sequence of the three basic categories of *nomos* does it move? Is it fundamentally a question of appropriation, distribution or production? It is fundamentally a question of proper division and distribution,

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and socialism is accordingly and above all a doctrine of redistribution.

Not only radical socialism or communism but also the concept of the social that all political parties in contemporary European democracies have somehow adopted, at least as an adjective, subscribe to a program of distribution and redistribution. There is now in Germany a lively discussion not only about the social market economy but also about the constitutional question concerning the precise meaning of the social federal state (*Bundesstaat*) and of the social liberal state (*Rechtsstaat*) that the Constitution of the German Federal Republic seeks to establish.[16] Also in juridical attempts to define the ambiguous word "social," concepts of distribution and redistribution appear decisive. A prominent German constitutional jurist, Hans Peter Ipsen, had this to say in a now famous speech on expropriation and socialization: "With reference to the constitutional guarantee of property, which here is being discussed as part of the social order, my understanding of the formation of the social order is the reformation and transformation of property ownership *to the point of its redistribution*."[17]

Concerning the concept of socialization, Ipsen said that "in its uncorrupted, true revolutionary sense, i.e., before being tied up and juridically regulated by constitutional norms, socialization postulated the

16. Cf. Christian Friedrich Menger, *Der Begriff des sozialen Rechtsstaates im Bonner Grundgesetz* (Tübingen: J. C. B. Mohr, Recht und Staat No. 173, 1953) and Günter Dürig, "Verfassung und Verwaltung im Wohlfahrtsstaat," in *Juristenzeitung*, No. 7/8 (April 15, 1953), p. 196. Menger seeks to reduce the concept of the social to a mere "mutual respect," because the fathers of the Constitution "consciously rejected the Welfare State." In Huber's opinion, the *Sozialstaat* clause in Articles 20 and 28 of the Constitution contains only the "general social proviso" that economic freedom is subject to the principle of social justice, i.e., the guarantee of a dignified existence for all. See Ernst Rudolf Huber, *Wirtshaftsverwaltungsrecht*, Second Edition (Tübingen: J. C. B. Mohr, 1953), p. 37. See also Ernst Forsthoff's lecture, "Begriff und Wesen des sozialen Rechtsstaates," in *Veröffentlichungen der Vereinigung der Deutschen Staatsrechtslehrer*, Vol. 12 (1954), pp. 8-36. One should not forget that "social" is a foreign word in the German language, which is not the case with romance languages or English. In these languages it is easier to keep in mind the word's general — not specifically socialist — relation to *societas*, *societé* and society than it is in German. Let someone try to translate Disraeli's "social sorcery" into German! Yet, a remark by a prominent French jurist, Georges Ripert, warrants mention. Ripert said that the expression *socialisation du droit* [socialization of law] was senseless, then added: but such linguistic usages have their own meaning — the word "social" refers to a party, a politics, a doctrine, a literature, an appeal court and even a section of the Privy Council: it can also indicate a *droit social* [social law]. In fact, it serves as *de protéger les uns et de désarmer les autres* [protect one and disarm the other]. See Georges Ripert, *Le déclin du droit: Études sur législation contemporaine* (Paris: Librairie de droit et de jurisprudence, 1949), p. 39.

17. Hans Peter Ipsen, "Enteignung und Sozialisierung," Speech at the Göttingen Conference of the Vereinigung der Deutschen Staatsrechtslehrer (October 1951), p. 75.

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systematic transformation of the economic order with respect to property by making *future owners of former non-owners*."[18] Furthermore: "If the juridically indifferent concept of nationalization (considered from the dogmatic perspective of our prevailing economic constitution) should acquire a meaning consistent with the historical and economic-political postulate of socialization, then it demands the settlement of individual property ownership based on self-interest and subject only to general, public and legal ties to property, at least through a surplus-(plural-, joint-) ownership, by which *social groups which have hitherto been excluded from ownership and will in the future share in it*."[19]

Yet, precisely because socialism raised the question of the social order as one of division and distribution, it raised once again the old problem of the sequence and evaluation of the three original processes of social and economic life. Even socialism cannot escape the fundamental question of the problematic sequence of appropriation, distribution, production. This question reveals substantial divergences, even contradictions, among the numerous doctrines and systems which, despite their differences, are collectively called "socialist" and said to fly the socialist flag.

A particularly simple example of this is a socialist like Charles Fourier, who subsumed all problems of appropriation and distribution under a fantastic increase in production. This is why he is considered utopian. But it should not be forgotten that it was precisely this alleged utopianism which allowed him to formulate a clear position with respect to basic questions and thereby to affirm the contemporary tie of socialism to the historical vision of technical progress and its unlimited increase in production. It was different with [Pierre-Joseph] Proudhon, who argued with a strong moral pathos, above all in terms of right and justice. His socialism is thus essentially a doctrine of division and distribution. The elevation of producers over consumers, workers over mere eaters, is coined in moral value judgments. Humanity is not yet divided into friend and enemy, producers and mere consumers, as was the case later for Georges Sorel. Proudhon is a moralist in the specific French sense. For him, appropriation becomes the consequence and attendant phenomenon of just division and distribution whereby true producers strip mere consumers of their ill-gotten gains.

Karl Marx, on the contrary, did not argue for socialism on moral grounds but, rather, in terms of a philosophical and historical dialectic.

18. *Ibid.*
19. *Ibid.*, p. 106.

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Of course, he likes to prove his enemies wrong and adopts a position of moral outrage with respect to the exposed exploiters of early capitalism in the age of piracy and the veiled forms of appropriation whereby the workers' surplus value is seized by the capitalists. Yet, from the standpoint of the philosophy of history, Marx saw the development of the bourgeois social order as becoming increasingly inimical to distribution and at the same rate as the growth of production, i.e., as an economic absurdity hindering the dialectic of history which ultimately overcomes and destroys itself.[20]

The sharp distinction between a socialism whose core idea is the philosophy of history and one which is essentially a moral argument will become obvious here in the sequence and evaluation of appropriators, distributors and producers. The philosophical dialectic of the development of world history is the same as that which provides the side of coming things with the great historical right to appropriate what in theory they have already. The distribution and subsequent production are then questions which one need not address until the great appropriation has been completed.

Marx adopted and emphasized the progressivist claim to the unlimited increase in production essential to progressive liberalism. Thus he could treat the question of division and distribution as a later concern. He concentrates the whole weight of his attack on the expropriation of the expropriators, i.e., on the precedure of appropriation. In place of the old right of plunder and the primitive land appropriations of pre-industrial times, he substituted the appropriation of the total means of production — the great modern appropriation of industry (*Industrie-Nahme*). Then there is the obvious question of how to proceed with the concrete division and distribution of new chances of appropriation because the expropriation of the old owners opens up new and enormous possibilities of appropriation. Although extremely interesting, this obvious question is no longer being answered concretely. It is simply rejected as "unscientific," even as the concrete question of the continuation and *Gestalt* of the unlimited increase in production following the great appropriation of industry is left unanswered. Of course the

20. Max Weber, in a well-known passage, famous because of its reference to the term "communal economy" [*Gemeinwirtschaft*], distinguished between a "rationing-type" of socialism — something that, according to Weber, is consistent with the "workers' councils" [*Betriebsräte*] type of socialism — and an evolutionary type of socialism. See Max Weber, *Economy and Society: An Outline of Interpretive Sociology*, edited by Guenther Roth and Claus Wittich (Berkeley, Los Angeles and London: University of California Press, 1978), Vol. 1, pp. 111-112.

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plundering should stop, but appropriation as a precondition of new distributions does not. If the essence of imperialism lies in the precedence of appropriation over distribution and production, then a doctrine such as the expropriation of the expropriators is obviously the strongest imperialism because it is the most modern.

We should abolish all appropriation, because it is inhuman and historically obsolete. We should also limit problems of distribution because it is too difficult to find not only general principles but also persuasive measures and legally viable procedures. Then there remains only production. Many doctrinaire thinkers have ingeniously shifted attention away from appropriation and distribution to production. However, there is clearly something utopian about construing social and economic systems in terms of mere production. If there were only problems of production and if mere production created such wealth and unlimited possibilities of consumption that appropriation as well as distribution were no longer problematic, then economic systems would cease to exist because they always presuppose a certain scarcity.

These remarks on socialism and imperialism are intended only to indicate the usefulness of the three basic meanings of *nomos* and the problem of their sequence. In view of the vast literature on both socialism and imperialism, it would appear all too simplistic to emphasize only the appropriating aspect of imperialism. It would be superfluous and nothing more than a repetition of Carl Brinkmann's claim that "Imperialism is for the most part and in the widest sense a technical struggle with these laws (i.e., the laws of classical political economy concerning population and profit) and not only the struggle for the feeding grounds underlying them. But it should never be forgotten that this second, primitive struggle is also at the forefront of the world economy."[21]

That is no doubt true. However, there is something more to consider: the close proximity, the sequence and changing evaluation of the three basic categories of appropriation, distribution and production inherent in every concrete *nomos* and latent in all legal, economic and social systems, though differing in evaluations and sequence, but which in a surprising change can become relevant again.

Perhaps the scholarly concern here can best be grasped by bringing the three categories of *nomos* in line with the very real and all-encompassing

21. Carl Brinkmann, "Imperialismus als Wirtschaftspolitik" in *Die Wirtschaftswissenschaft nach dem Kriege: Festgabe für Lujo Brentano zum 80. Geburtstag*, Edited by Moritz Julius Bonn and Melchior Palyi (Munich and Leipzig: Duncker & Humblot, 1925), Vol. 1, pp. 87-88.

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question raised in every juridical consideration — the question of world unity. Has humanity today actually "appropriated" the earth as a unity so that there is nothing more to be appropriated? Has appropriation really ceased? Is there now only division and distribution? Or maybe only production remains? If so we must ask further: Who is the great appropriator, the great divider and distributor of our planet, the manager and planner of unified world production? This question should immediately warn us against ideological short-circuits. At work here are widespread and generally forceful (although scientifically superfluous) simplifications. They suggest fictional unities. Their simplifications can only be overcome by the deeper simplicity of original concepts.

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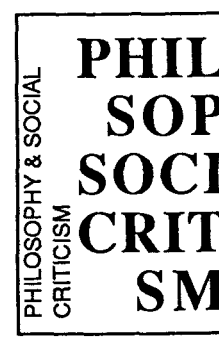

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*Democracy Revisited**

Alain de Benoist

"Those who wish to defend some regime, whatever its nature may be, will call it democracy," wrote George Orwell.[1] This does not seem to be a recent phenomenon. Already in 1849, Guizot remarked: "Such is the power of the word Democracy, that no government or party dares to raise its head, or believes its own existence possible, if it does not bear that word inscribed on its banner."[2] This is all the more true today. Not everyone is a democrat, but everyone pretends to be one. There is no dictatorship that does not consider itself democratic. Former communist countries in Eastern Europe not only used to present themselves as democratic — a fact never belied by their constitutions[3] — but they also portrayed themselves as the only true democracies (in contrast to Western "formal" democracies).

The near unanimity on democracy as a word, albeit not always in fact, gives the notion a *moral* and almost religious content which discourages further discussion. Many authors have been aware of this problem. According to T. S. Eliot: "When a word acquires a universally sacred character . . . , as has today the word democracy, I begin to wonder, whether, by all it attempts to mean, it still means anything at all." De Jouvenel was even more explicit: "All discussions of democracy, all arguments whether for it or against it, are stricken with intellectual futility,

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* Originally published in Alain Benoist, *Démocratie: Le Problème* (Paris: Le Labyrinthe, 1985), pp. 7-20. Translated by Tomislav Sunic.

1. George Orwell, *Selected Essays* (London: Penguin, 1957), p. 149.
2. Francois Guizot, *Democracy in France* (New York: Howard Fertig, 1974), p. 8.
3. Georges Burdeau observes that, in terms of their federal organization, USSR institutions seemed similar to American ones and, in terms of its governmental system, the USSR seemed similar to England. See his *La démocratie* (Paris: Editions du Seuil), p. 141.

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because the thing at issue is indefinite."[4] Sartori added: "In a somewhat paradoxical vein, democracy could be defined as a high flown name for something which does not exist."[5] Freund also noted wryily that "to claim to be a democrat means little, because one could be a democrat in a contradictory manner — either in the manner of the Americans or the English, or like East European communists, Congolese or Cubans. It is perfectly natural that under such circumstances I refuse to be a democrat, because my neighbor may be an adherent of dictatorship while invoking the word democracy."[6]

The first notion that has to be dismissed is that democracy is a specific product of the modern era, and that it corresponds to a more "developed stage" in the history of political regimes.[7] This is incorrect. Democracy is neither more "modern" nor more "evolved" than other forms of governance. Governments with democratic tendencies have existed throughout history. The linear perspective used in this type of analysis can be particularly deceiving. When applied to some political regimes, the idea of progress is meaningless. According to that linear reasoning, one could easily argue for the "self-evidence" of democracy, which, according to liberals, "spontaneously" fits into political affairs just as the market "spontaneously" fits into the logic of supply and demand. Jean Baechler notes: "If we accept the hypothesis that people, as part of animal species (sic) aspire spontaneously to a democratic regime which promises them security, prosperity, and liberty, we must then also conclude that the minute these requirements have been met the democratic experience automatically emerges, without ever needing any conceptual framework."[8]

Unlike the Orient, absolute despotism has been rare in Europe. Whether in ancient Rome or in Homer's *Iliad*, Vedantic India or among the Hittites, there were always popular assemblies both in their military and civilian structures. In Indo-European societies kings were usually elected. In fact, all ancients monarchies were originally elective monarchies. Tacitus relates that among the Germans chieftains were elected on the basis of their virtues, and kings on account of their nobility (*reges*

4. Bertrand de Jouvenel, *On Power*, trans. by J. F. Huntington (New York: Viking Press, 1949), p. 276.

5. Giovanni Sartori, *Democratic Theory* (Detroit: Wayne State U. Press, 1962), p. 3.

6. Julien Freund, "Les démocrates ombrageux," in *Contrepoint* (December 1976), p. 111.

7. Other authors have held exactly the opposite opinion. For Schleiermacher, democracy is a "primitive" political form in contrast to monarchy, which is thought to correspond to the demands of the modern state.

8. Jean Baechler, "Le pouvoir des idées en democratie," in *Pouvoir* (May 1983), p. 145.

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ex nobilitate duces ex virtutes summunt). For a long time in France the crown remained both elective and hereditary. It was only with Pippin the Short that the king was chosen from within the same family; only after Hugh Capet were the principles of primogeniture adopted. In Scandinavia, the king was elected by a provincial *thing* — an act that had to be first confirmed by other assemblies in the country. Among the Germanic peoples the practice of "shielding" (lifting the new king on the soldiers' shields) was widespread.[9] The Holy Roman Emperor was also subject to elections, and the importance of the role of Grand Electors in the history of Germany should not be neglected. By and large, it was only with the beginning of the 12th century in Europe that elective monarchy gradually gave way to hereditary monarchy. Until the French Revolution, kings ruled with the aid of parliaments whose executive power was considerable. In almost all ancient European communities it was the status of a freeman that conferred political rights to the citizen. "Citizens" were constituent parts of free popular communities with their own municipal charters. In the decision-making process, sovereign rulers were surrounded by councils. Moreover, the influence of customary law on juridical practice was an index of popular "participation" as defined by existing laws. In short, it would be unwarranted to argue that ancient monarchies lacked popular legitimacy.

The oldest Western parliament, Iceland's *allthing* — the federal assembly whose members gathered yearly at the inspired site called *thingsvellir* — emerged as early as 930 A.D. In 1079 Adam von Bremen wrote: "They have no king, only laws." The *thing* (parliament) designated both a location and the assembly where freemen with equal political rights convened at a fixed date to legislate and render justice.[10] In Iceland the freeman enjoyed two privileges: he had a right to bear arms and have a seat in the *thing*. "Icelanders created and experienced what one could call by some uncertain yet suggestive analogy a kind of Nordic Hellas, i.e., a community of freemen actively participating in community affairs. Those communities were surprisingly well-cultivated and intellectually productive, united as they were by bonds of esteem and respect."[11]

9. Significantly, it was with the beginning of the inquiry into the origins of the French royalty that the nobility, under Louis XIV, began to challenge the monarchy.

10. The word *thing* derives from a Germanic word which originally evoked "everything that is gathered together." The same word gave birth to the English "thing," (German *Ding* — same meaning). This word seems to have designated the assembly in which public matters were discussed.

11. Frederic Durand, "Les fondements de l'Etat libre d'Islande: trois siècles de démocratie mediévale," in *Nouvelle Ecole*, Nos. 25-26, (Winter 1974-1975), pp. 68-73.

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Maurice Gravier has written that: "The Scandinavian democracy is very old and one could trace its origins to the Viking era."[12] In all of northern Europe this "democratic" tradition was anchored in a strong communitarian sentiment — a propensity to "live together," which fostered the primacy of the common interest over that of individuals. Such democracy typically included certain hierarchical structures, which explains why one could describe it as an "aristo-democracy." This tradition, based also on mutual assistance and the sense of common responsibility, remains alive in many countries today.

The belief that the people were originally the holders of power was common throughout the Middle Ages. Whereas the clergy limited itself to the proclamation "*Omnis potestas a Deo*," others argued that power could emanate from God only through the intercession of the people. "Power by divine right" should therefore be seen in an indirect form, not excluding the reality of the people. Thus Marsilius of Padua did not hesitate to proclaim the concept of popular sovereignty in order to defend the supremacy of the emperor (Ludwig of Bavaria) over the Church. The idea of a lack of distinction on principle between the people and their leaders furthermore emphasized the formula *populus et proceres* (the people and the nobles), which frequently appears in ancient texts. One must also mention the democratic tendencies already present in ancient Rome[13], the republics of medieval Italy, the French and Flemish communes, the Hanseatic municipalities and freely chartered Swiss cantons. There was also the ancient *boerenvrijheid* ("freedom of peasants") in medieval Frisian provinces whose equivalent could be found along the North Sea, in the Low Lands, in Flanders, Scandinavia, Germany, Austria or Switzerland. Finally, it is worth mentioning the existence of important communal movements based on free corporate structures whose function was mutual help and the pursuit of economic and political goals. At times these movements were on a collision course with the powers of the monarchs and the Church. As such, they had to draw on the support of the burgeoning bourgeoisie. At other times, the same movements backed the monarchy in its fight against feudal lords and, consequently, contributed to the rise of the mercantile bourgeoisie.[14]

12. Maurice Gravier, *Les Scandinaves* (Paris: Lidis, Brepols, 1984), p. 613.

13. Cf. Paul M. Martin, *L'idée de royauté à Rome. De la Rome royale au consensus republicain* (Adosah Clermont-Ferrand, 1983).

14. Here "democracy," as in the case of free peasants, already involved social demands, although not "class struggle," which did not exist in ancient democracy. The purpose of those demands in the Middle Ages was to give voice to those excluded from

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In reality, most political regimes throughout history can be regarded as mixed. "All ancient democracies," writes Francois Perroux, "were governed by a *de facto* or *de jure* aristocracy, unless they were governed by a monarchical principle."[15] According to Aristotle, Solon's constitution was oligarchical in terms of its *aeropagus*, aristocratic in terms of its magistrates and democratic in terms of the make-up of its tribunals. It combined the advantages of all regimes. Similarly, Polybius argues that Rome was an elective monarchy, given the power of its consuls; an aristocracy, given the powers of the Senate; and a democracy, given the rights of the people. In his *De Republica*, Cicero shares this views. Monarchy does not have to exclude democracy, as can be seen in contemporary constitutional and parliamentary monarchies today.

The *notion* of democracy did not appear in modern political thought until the 18th century — and even then it was piecemeal and frequently accompanied by pejorative connotations. Prior to the French Revolution the most "advanced" philosophers fantasized about mixed regimes combining the advantages of "enlightened" monarchy and popular representation. Montesquieu also acknowledged that a people could have the right to control, but not to rule. Not a single revolutionary constitution claimed to have been inspired by "democratic" principles. Robespierre was an exception at the time in that, toward the end of his reign, he explicitly mentioned democracy (which, however, did not enhance his popularity in subsequent years). He defined democracy as a representative form of government, i.e., a state where the people, guided by their own laws, "do all they can do well, and where their representatives do all that the people cannot do well" (Speech of February 5, 1794).

It was in the US that democracy became widespread, notably when the notion of "republic" was contraposed to that of "democracy." Its usage became current at the beginning of the 19th century, especially with the advent of Jacksonian democracy and the subsequent foundation of the Democratic Party. The word again crossed the Atlantic and became firmly implanted in Europe to grace constitutional debates during the

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power. Often, however, "democracy" was used against the people. In medieval Florence, social strife between *popolo grosso* and *popolo minuto* was particularly brisk. Francesco Nitti writes on this matter: "The reasons the Florentine working classes defended their liberty willy-nilly and sympathized instead with the Medicis were that they opposed democracy, which they viewed as something favoring the rich bourgeoisie." Francesco Nitti, *La démocratie* (Paris: Félix Alcan, 1933), Vol. 1, p. 57.

15. This opinion is shared by most students of ancient democracies. Thus Victor Ehrenberg sees Greek democracy as a "form of enlarged aristocracy," in *L'Etat grec* (Maspéro, 1976), p. 94.

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first half of the 19th century. Tocqueville's widely read *Democracy in America* finally enshrined the word.

Despite numerous quotations inspired by antiquity and 18th century philosophical and political discussions, the real legacy of ancient democracy was weak. Philosophers seemed more enthralled with Sparta than with Athens. The debate Sparta vs. Athens frequently twisted by bias or ignorance, pitted authoritarian egalitarianism against moderate liberalism.[16] Rousseau disliked Athens and considered Sparta first and foremost the city of equals (*Homoioi*). By contrast, when Desmoulins thundered against Sparta, it was to denounce its excessive egalitarianism. He attacked the Girondin Brissot, a pro-Lycurgian "who has rendered his citizens equal just as a whirlpool equalizes all those about to drown." The debate remained rather shallow. The cult of antiquity was primarily upheld as a metaphor for social regeneration, as exemplified by Saint-Just's words at the Convention: "The world has been empty since the Romans; their memory can replenish it and it can augur liberty."[17]

All too often the comparison of ancient and modern democracies has turned into an academic exercise.[18] Allegedly, the former were direct democracies, whereas the latter (for reasons of territory and population) are representative ones. Moreover, it is routinely pointed out that slaves were excluded from the Athenian democracy; consequently, the idea emerged that Athens, after all, was not so democratic.

Democracy for the Greeks was defined primarily in relation to two other systems: tyranny and aristocracy. Democracy presupposed three conditions: *isonomy* (equality before the law); *isotimy* (equal access to public functions); and *isegory* (freedom of speech). This was direct democracy, known also as "face-to-face" democracy, since all citizens were allowed to take part in *ekklesia* (Assembly). Deliberations were prepared by the *boule* (Council), although in reality it was the popular assembly that made decisions. The popular assembly nominated ambassadors, decided over war and peace, examined the functioning of magistrates, issued decrees, ratified laws, bestowed citizenship rights and ajudicated common security. In short, "the people ruled, instead of being ruled by the elected individuals."[19]

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16. See Luciano Guerci, *Libertà degli Antichi e Libertà dei Moderni. Sparta, Atene e i 'philosophes' nella Francia del Settecento* (Naples: Guido, 1979).

17. 11 Germinal, year II. It is significant that in the contemporary period democrats appear to be more in favor of Athens, while Sparta is denounced for its "war-like spirit."

18. See Moses Finley, *Democracy Ancient and Modern* (New Brunswick: Rutgers University Press, 1973) which is both erudite and relevant.

19. One of the best works on this topic is Jacqueline de Romilly's essay, *Problèmes de la démocratie grecque* (Paris: Hermann, 1975).

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Democracy in Athens meant first and foremost a community of *citizens*, i.e., the people gathered in the *ekklesia*. Citizens were ranked according to their *deme*, which had territorial, social and administrative significance. The term *demos*, Doric in origin, designates people who live in a given territory, which determined social status.[20] To some extent, *demos* and *ethnos* coincide: democracy could not be conceived in relation to the individual, but only to the *polis*: to the city as an *organized community*. Slaves were excluded from voting not because they were slaves but because they were not citizens. This seems shocking today, yet which democracy has ever given voting rights to non-citizens?[21]

Notions of citizenship, liberty or equality of political rights and popular sovereignty were intimately interrelated. The most essential element in the notion of citizenship was one's origin and heritage. Pericles was the "son of Xanthippes from the *deme* of Cholargos." After 451 BC, in order to become a citizen one had to be born of Athenian mother and father. Defined by their heritage, citizens (*polites*) opposed non-citizens (*idiotes*) — a designation that quickly took on a pejorative meaning (the notion of a rootless individual, which developed into that of the "idiot"). Citizenship-as-function thus derived from the notion of citizenship-as-status, which was the exclusive prerogative of one's birth. To be a citizen meant in the fullest sense to have both a homeland and a history. One is born an Athenian — one does not become one (with rare exceptions). Furthermore, the Athenian tradition discouraged mixed marriages. Political equality was embedded in law and was a function of common origins. Only birth conferred individual *politea*.[22] Democracy was rooted in the *autochthonous* concept of citizenship, which ultimately linked its performance to the origins of those who exercised it. Athenians in the 5th century celebrated themselves as "the autochthonous people of the great Athens." Into that founding myth they ground of their democracy.[23]

20. The word *demos* is opposed to *laos* — a term employed in Greece to depict the people, but specifically meaning "the community of warriors."

21. In France, the right to vote was implemented only by stages. In 1791 the distinction was still made between "active citizens" and "passive citizens." Subsequently, the suffrage of qualified voters was established. Although universal suffrage was proclaimed in 1848, it was limited to males until 1945.

22. On the evolution of that notion, see Jacqueline Bordes, *Politeia dans la pensée grecque jusqu'à Aristote* (Paris: "Belles Lettres," 1982).

23. Nicole Loraux, *Les enfants d'Athéna. Idées athéniennes sur la citoyeneté et la divison des sexes* (Paris: Maspèro, 1981), interprets the Athenian notion of citizenship as a result of the "imaginary belonging to an autochthonous people." The myth of *Erychthonios* (or *Erechte*) explains the autochthonous character and the origins of masculine democracy at the same time as it grafts the Athenian ideology of citizenship onto immemorial foundations.

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Both in Latin and Greek liberty is a function of someone's origin. Free men (Greek: *eleutheros*) are those who belong to a certain "stock" (in Latin the word *liberi* means children). As Benveniste writes, "to be born of good stock is to be free."[24] Similarly, in German the kinship between the words "free" (*frei*) and "friend" (*Freund*) indicates that liberty originally sanctioned a mutual relation. The Indo-European root *leudh*, from which come simultaneously the Latin *liber* and the Greek *eleutheros*, has subsequently been used in the designation of "people," in so far as they belong to a given people (compare also the old Slavonic *ljudu* and the German *Leute*, both of which mean "people" and come from a root evoking "growth and development").

The original meaning of "liberty" does not suggest at all "freedom" — in the sense of emancipation from a collectivity. Instead, it implies *inheritance*, which alone confers liberty. Thus when the Greeks spoke of liberty they did not have in mind the right to break away from the tutelage of the city or the right to free themselves from the constraints to which citizens were bound. Rather, it was the right and the political *capability*, guaranteed by laws, to *participate* in the life of the city, to vote in the assembly, to elect magistrates, etc. Liberty did not legitimate secession; instead, it sanctioned its very opposite: the bond which tied people to their cities. This was not *liberty-autonomy* but *liberty-participation*; it was not meant to reach beyond the community but was practised solely in the framework of the *polis*. Liberty meant adherence.

If liberty was directly linked to democracy, then it meant first and foremost the liberty of the people, from which subsequently follows the citizens' liberty. Only the liberty of the people (or of the city) can *lay the foundation* for the equality of political and individual rights, i.e., rights enjoyed by individuals as citizens. Liberty presupposes *independence* as its first condition. Man lives in society, therefore, individual liberty cannot exist without *collective* liberty. Among the Greeks individuals were free because (and to the extent that) their city was free.

When Aristotle defined man as a "political animal," as a *social* being, when he claimed that the city precedes the individual and that the individual can achieve his potential only within society,[25] he also suggested that man should not be detached from his role of citizen, as a person living in the framework of an organized community, a *polis* or a

24. Emile Benveniste, *Indo-European Language and Society* (London: Faber and Faber, 1973), p. 262.

25. Aristotle, *Politics* 1253a, pp. 19-20.

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civitas. Aristotle's views were diametrically opposed to those of modern liberalism, which posits that the individual is prior to society and that man, as a self-sufficient individual, is immediately something more than just a citizen.[26]

Thus in a "community of freemen" individual interests must never prevail over common interests. "All constitutions whose objective is common interest," writes Aristotle," are in accordance with absolute justice." By contrast, "those whose objective is the personal interest of the governors tend to be defective."[27] Unlike what can be found in, e.g., Euripides' works, the city in Aeschyles' tragedies is regularly described as a communal entity. "This sense of community fortified by state religion, myths and traditions, was the essential source of success in Athenian democracy."[28] In Greece "liberty meant the rule of law and participation in the decision-making process — not necessarily the enjoyment of inalienable rights."[29] The *law* is identified with the genius of the city. "To obey the law meant to be devoted with zeal to the will of the community."[30] Only liberty can pave the way for legality: *Legum servi summus ut liberi esse possimus* ("We are the servants of the law so that we can be free").[31]

In his attempt to show that liberty is the fundamental principle of democracy,[32] Aristotle succeeds in deemphasizing equality. For the Greeks equality was only one *means* towards democracy. Political equality, however, had to emanate from citizenship, i.e., from the adherence to a given people. From this it follows that members of the same people (of the same city), irrespective of their differences, shared the desire to be citizens in the same and equal manner. This equality of rights is by no means equivalent to *natural equality*. Equal rights for all citizens to participate in the assembly does not mean that men are by nature equal (nor that it should be preferable that they are). Rather, the citizens' privilege is the right to benefit from equal identification with

26. On Aristotle and his relation to the Athenian constitution, see James Day and Mortimer Chambers, *Aristotle, History of Athenian Democracy* (Berkeley and Los Angeles: University of California Press, 1962).

27. Aristotle, *op. cit.*, 1279a p. 17ff.

28. *Democracy Ancient and Modern*, *op. cit.*

29. *Ibid.*, p. 141.

30. Paul Veyne, "Les Grecs, ont-ils connu la démocratie?" in *Diogène* (October-December 1983), p. 9. Veyne writes: "Bourgeois liberalism organizes cruising ships in which each passenger must take care of himself as best as he can, the crew being there only to provide for the common goods and services. By contrast, the Greek city was a ship where the passengers were the crew."

31. Cicero, *Oratio pro Cluentio*, p. 53.

32. Aristotle, *Politics*, VII, 1.

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the city and entitlement to vote. As the appropriate means to this *techne*, equality remains external to man. This process, as much as it represents the logical consequence of a common heritage, is also the condition for common participation. In the eyes of the ancient Greeks it was considered natural that all citizens be associated with political life not by virtue of some universal and inalienable rights of a "man by himself," but from the fact of common citizenship. In the final analysis, the crucial notion was not equality but citizenship. Greek democracy was a political regime in which all citizens saw their liberty as *founded* in a guaranteed equality that entitled them to enjoy civil and political rights.

Various authors have provided divergent interpretations of ancient democracy. For some, Athenian democracy is an admirable example of civic responsibility (Francesco Nitti); for others, it evokes the realm of "activist" political parties (Paul Veyne); for still others, ancient democracy is essentially totalitarian (Giovanni Sartori). In general, everyone seems to agree that there is considerable difference between ancient and modern democracy. Curiously, it is modern democracy that is used as a criterion to evaluate the democratic credentials of the former. This reasoning is odd. As already indicated, it was very belatedly that modern political regimes came to identify themselves as "democracies." Consequently, when historians began to study ancient democracy and realize that it was different from its modern counterpart, they drew the conclusion that the former was "less democratic" than the latter.

Democracy was born in Athens in the 5th century B.C. In view of this, it is the Athenian democracy (regardless of how one judges it) that should be used as a paradigm of "genuine" democracy. Granted that contemporary democratic regimes differ from Athenian democracy, they also lack democratic content. Given the fact that today everyone boasts of being a democrat and in the most perfect form possible, and in view of the fact that Greek democracy does not resemble the version existing today, it is naturally the Greeks who must bear the brunt of being "less democratic"! This explains the paradox whereby Greek democracy, in which the people participated daily in the exercise of power, is disqualified on the grounds that it does not fit into the concept of modern democracy in which the people, at best, participate only indirectly in political life.

But what is the difference between the two? It is wrong to assume that it consists in either the "direct" or the "indirect" nature of the decision-making process. Each has a different concept of man, the world and social bonds. The democracy of antiquity was communitarian and

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"holistic"; modern democracy is primarily individualistic. Ancient democracy defined citizenship in terms of origins and provided people with the opportunity to participate in the life of the city. Modern democracy organizes atomized individuals into citizens viewed through the prism of abstract egalitarianism. Ancient democracy was based on the idea of organic community; as the heir of Christianity and of the philosophy of the Enlightenment, modern democracy considers the individual as its centerpiece. In each the meaning of words such as city, people, nation and liberty is totally different.

To argue that Greek democracy was a direct democracy only because it encompassed a small number of citizens falls short of a satisfactory answer. Direct democracy need not be associated with a limited number of people. It is primarily associated with the notion of a relatively *homogeneous* people conscious of what makes them a people. The proper functioning of both Greek and Icelandic democracy was the result of cultural cohesion and a clear sense of shared heritage. The closer the members of a community are to each other the more they are likely to hold common sentiments, values and ways of looking at the world, and the easier it is for them to make collective decisions in regard to the common good without the help of mediators. By contrast, having ceased to be the place of a collectively lived *meaning*, modern societies require a multitude of *intermediaries*. The aspirations surfacing in this type of democracy spring from contradictory value systems no longer reconcilable with unified decisions. To return to a Greek concept of democracy does not mean nurturing shallow hopes of "face-to-face" transparence. Rather, it means reappropriating and adapting the concepts of "people" and "community" to the modern world.

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Conformist Federalism

Susan Bishay

What is "American Federalism"?

Federalism may be defined as a system of constitutional arrangements among sovereign political units to carry out clearly outlined policies best dealt with collectively by a "federation" (e.g., foreign policy, defense, monetary policies, custom regulations, etc.) while at the same time guaranteeing the political autonomy of these self-governing units concerning all other matters.[1] In principle, it differs from what has been called the "federal state" — essentially a unitary nation-state with a decentralized administrative apparatus — in that it permits a wide latitude of axiological heterogeneity among its units, thus preserving a degree of cultural particularity and specificity inconceivable within either unitary nations or the federal state. The latter accurately describes the US situation which, consequently, has often been so identified.[2]

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1. Cf. Carl Schmitt, "The Constitutional Theory of Federation" [1928], in *Telos* 91 (Spring, 1992), pp. 26-56. Although not himself a federalist, Schmitt has provided as rigorous a definition of a "federation" as is to be found anywhere.

2. According to Mogi, the "distinction between a confederation and a federal state" is "that in the former the member states are 'sovereign' and the central authority is subject to them; it can only signify its will by decrees, and it leaves to the individual state the power to give effect to the laws of the confederation . . . ." In the federal state, on the contrary, "sovereignty is withdrawn from the hitherto independent members," who even though still called "states" cease to be true states, since sovereignty is vested in the central authority." See Sobei Mogi, *The Problem of Federalism: A Study in the History of Political Theory* (London: Allen and Unwin, 1931), Vol. 2, p. 791. For self-described "integral federalists" such as Alexandre Marc and Lutz Roemheld the US exemplifies "integral federalism" — something transcending both the federal state and confederation because it is allegedly based on "dual sovereignty." Cf. G. L. Ulmen, "What is Integral Federalism?" in *Telos* 91 (Spring 1992), pp. 135-49. Yet, the claim that the

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Historically, however, this designation has only managed to confuse the distinction between federalism and a unitary state. Miglio aptly defines federations as composed of "small scale political-administrative bodies only large enough to fulfill the spontaneous interests of citizens, and *subsequently voluntarily* connected among themselves or integrated into broader aggregations."[3] The unitary state, by contrast, presupposes a nation with a predominant homogeneous value framework shared by its citizens and objectified into its legal and constitutional institutions. In other words, it presupposes an axiological homogeneity which the experience of the last couple of centuries has shown to obtain spontaneously only within very localized contexts. On a small scale where face-to-face interaction is still possible, members of a given community can by and large best resolve their differences over time (not, however, *always* or *inevitably*, as can be readily seen from the experience of Ireland, Bosnia, the Middle East, etc.).

Nationalist projects to construct such homogeneous communities have failed. Such projects have usually meant the forcible imposition of one group's values over all others or the institutionalization of a pseudo-universal and self-contradictory liberal-democratic framework which gradually degenerates into a depoliticized techocratic-managerial state run by a New Class of bureaucrats and experts.[4] Notwithstanding its covert bureaucratic origins,[5] multiculturalism has begun to expose the untenability of this predicament, as a previously privatized diversity of values and identities hitherto banished to the private sphere is forced back into the political arena as a result of the completion of the shift from the classical liberal state to the welfare state —what Carl Schmitt

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American system is an example of genuine federalism, distinct from the European statist tradition, is a myth. At any rate, the US Constitution really established a federal state, which means that from the very beginning the US was predisposed toward its subsequent development into a unitary state.

3. Gianfranco Miglio, "Toward a Federal Italy," in *Telos* 90 (Winter 1991-2), p. 42, emphasis added. Its subsequent "stability" is beside the point. Federations, Miglio points out, "are not meant to be eternal." The point is an agreement among units which remain autonomous in their ability to sustain or retract consent to a given federal arrangement. In other words, federalism presupposes the right of a particular unit to secede and of a majority of units to reject a member unit or to disband the entire arrangement. Although instances of peaceful dissolutions of federations are rare, they do occur, as can be seen by the recent break-up of Czechoslovakia. See "Special Section on the Former Czechoslovakia," in *Telos* 94 (Winter 1992-93), pp. 103-192. For a critique of Schmitt, who denies the option to secede, see Robert D'Amico and Paul Piccone, "The Future of Federalism," in *Telos* 91 (Spring 1991), pp. 3-15.

4. See Paul Piccone, "The Crisis of Liberalism and the Emerge of Federal Populism," in *Telos* 89 (Fall 1991), pp. 7-44.

5. *Ibid.*, pp. 29ff.

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described a generation ago as the shift from the *Rechtsstaat* to the *Sozialstaat*.[6] Thus, the very identity of "national communities" is thrown into crisis, precipitating society into a *bellum omnium contra omnes* where no political consensus is possible and the polity becomes increasingly ungovernable. Federalism provides a distinctive alternative to this predicament by allowing the free articulation of a plurality of values, traditions and customs which have historically been the ingredients constituting viable communities,[7] in contradistinction to liberalism's pluralist ideal of a multiplicity of competing interests rendered equally ineffectual by the sheer scale of the nation-state in which all vie for dominance but none may achieve it.

The latter ideal was perhaps best articulated by James Madison in what is still seen as one of the most influential definitions of federalism by one of its most prestigious authorities — the American founders.[8] From the outset, however, there were serious problems with the American version of "federalism" as first a federal state and subsequently a unitary state. The former was seen by the original opponents of the Constitution as a centralizing corruption of that ideal of local autonomy on which the colonies had been founded as havens for diverse religious practices. Federalism has since that time been systematically confused with the ideal of what proponents and opponents alike had called an "extended republic" — but never so much as in this century, as centralization became entrenched after the Civil War and, most of all, with the institutionalization of the New Deal. Since then, the faintest objections to its course have been marginalized and stigmatized as obsolete and, worse yet, in league with slavery, racism and all sorts of other equally odious oppressive practices.

In the US context, what Miglio describes as federalism is not generally considered federalism, but rather confederalism — an option supposedly

6. See Carl Schmitt, "Appropriation, Distribution, Production: Toward a Proper Formulation of the Basic Questions of Any Social and Economic Order" as well as G. L. Ulmen, "Introduction," in this issue of *Telos*.

7. Proudhon predicted that the 20th century would be the century of federalism — not an unreasonable expectation given the decline of the *jus publicum Europæum*. Since the end of WWI, however, the universalist projects of Wilsonianism and Leninism and the subsequent Cold War froze the international *status quo* into a bipolar world dominated, after WWII, by two superpowers. The collapse of this framework at the end of the 20th century reintroduces all of the conditions which had led Proudhon to make such a premature prediction. Cf. Paul Piccone and G. L. Ulmen, "Schmitt's 'Testament' and the Future of Europe," in *Telos* 83 (Spring 1990), pp. 4-5.

8. James Madison, *The Federalist*, Number 10, in Clinton Rossiter, ed., *The Federalist Papers* (New York: Penguin Books, 1961), pp. 77-84.

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superseded by the successful establishment of the Constitution and definitively discredited by its association with slave states seeking to preserve their autonomy before the matter was finally settled by civil war. Meanwhile, federalism as such is routinely conflated with its opposite, the unitary nation state. Thus, the American case has been the site of massive confusion as to the meaning of federation and continues to be so even while major constitutional questions have surfaced with attempts to unify Europe and renegotiate relations among Canada's provinces, or even within the whole North American continent as a result of the deployment of NAFTA.

Federalism allows culturally diverse groups of people with radically different values, customs and traditions to live together without attempting to destroy each other.[9] The federation's *raison d'être* is precisely to mediate conflicts among its constituent units. It should come as no surprise, then, that there has been a renewed interest in federalism particularly in Europe and Canada, given the crisis and breakdown of unitary nation-states, the false starts of Maastricht predicated on the old system of nation states (Schmitt's obsolescent *Jus Publicum Europæum*) and the rise of regionalist movements such as the Northern League in Italy and regionalist movements in Catalonia, Wales, Scotland and elsewhere.[10] In such an international context "American federalism" is not without reason regarded as a possible model in the present search for viable constitutional arrangements. But the American model is far from ideal if the ideal is genuine federation — which explains, among other things, why the word "federalism" has become anathema in countries such as Britain and Denmark concerned with retaining their national autonomy and cultural specificity. Whether the US was ever federalist in some "original" form is open to debate, though such a position would be difficult to sustain in so far as the most original, founding ideas owed as much to natural rights philosophy as to federative principles, and the political defeat of genuine federalism was effectively and explicitly accomplished in the course of adopting the US Constitution.[11]

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9. The Swiss political system provides a far more accurate (though not ideal) model of federalism than the American republic ever did. Cf. Willi Goetschel, "Switzerland, for Example: 700 Years Old and Still Going Strong. . . ," in *Telos* 88 (Summer 1991), pp. 155-66; and Wolfgang Luthardt, "Direct Democracy in Western Europe: The Case of Switzerland," in *Telos* 90 (Winter 1991-92), pp. 101-12.

10. Cf. the special section on the Leagues in Italy in *Telos* 90 (Winter 1991-2), pp. 3-89.

11. See Herbert J. Storing, *What the Anti-Federalists Were For: The Political Thought of the Opponents of the Constitution*, Constitutional Heritage Series (Madison: Madison House for the Center for the Study of the American Constitution, 1989).

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At any rate, clarifying the legacy of American federalism today is crucial to contemporary constitutional projects underway throughout the world. Discussion of American federalism has in this century tended to reflect the original confusion of federalism with central statism, while effecting at the same time a degeneration of the concept of federalism along with the American experience of it. The relevance of the US political system is unintelligible without considering carefully its own claim to a federalist legacy. Such a claim has unfortunately been mediated by a barrage of political thinkers who, particularly since the beginning of the Cold War and the conclusion of the New Deal in the Great Society, have systematically confused federalism with liberal statism.

"Modern Federalism"

This degeneration of the meaning of federalism in political thought is evident once it is noted that at least for a brief period between the Progressive Era and the New Deal, federalism was deployed as a critical concept. Thus, before dismissing federalism as "obsolete," even Laski looked favorably upon the idea.[12] As late as 1931 one of Laski's students, Sobei Mogi, wrote a comprehensive two-volume history of federalism which included a substantial section on the US (nothing much more extensive has appeared since). Mogi's main contribution is to have located the American experience witin an international context. His specific approach, however, prefigured in some ways the conventions of a synthetic version of "federalism" as pluralism which becomes predominant with the advent of the Cold War. Mogi characterized American federalism in terms of a problematic coexistence of two mutually exclusive, or at least limiting, principles: individual rights and local autonomy. He cites Algernon Sidney as an important precursor of "modern federalism" — the federalism of the American founders. As Sidney believed both in the doctrine of natural right and in the principle of government by consent of the governed, Mogi claims that federalism presupposes that "[n]o law is just and valid unless it is based on the common good of the people as a whole, and also on general consent." While Mogi saw this as "precise logic,"[13] roughly during the same period Carl

12. Harold Laski's influential article, "The Obsolescence of Federalism," *(New Republic*, May 3, 1939, pp. 367-69) advocated the supecession of federalism by pluralism. Laski's earlier *Studies in the Problem of Sovereignty* (New Haven: Yale University Press, 1917) and *Authority in the Modern State* (New Haven: Yale University Press, 1919) predate this truly anti-federalist position which was clearly a product of its time.

13. Sobei Mogi, *The Problem of Federalism*, *op. cit.* p. 43.

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Schmitt in Germany was criticizing the exact same thing as the fundamental contradiction between liberalism and democracy.[14]

The problem is that natural right and popular consent are often in direct conflict with one another. The extent to which American government has sought to embody both of these precepts is not a measure of its "federalism" — however qualified as the "federal state" rather than "confederation — but of its problematic liberal democratic character prefiguring the eventual dissolution of federalism into statism. Popular consent is meaningless if only "good" laws are allowed, with goodness determined by "natural law" or liberal principles. Such standards are not contingent on consent. They must either be interpreted by some extra-popular mechanism or be left to every individual to determine. Law tends to become either removed from popular consent or arbitrary and contingent. The former is the result of the formation of public policy by an enlightened elite while the latter is the logical outcome of legal positivism, which eventually generates the kind of contemporary super-legality driven by civil disobedience — a feature Mogi included, strangely enough, within his definition *of federalism*: "No unjust law is entitled to force anyone to obey. Disobedience to an unjust law is a natural right of mankind."[15]

Typical of later treatments of federalism, Mogi assessed the "failure" of the Articles of Confederation solely from the perspective of the nationalizing objective of the 1787 Constitution.[16] To Mogi the American Federalists "were the founders of modern federalism"[17] — something unproblematically conflated with the genesis of the US. This is how James Madison, Alexander Hamilton and John Jay viewed the matter. Thus Mogi quotes from one of Jay's "masterpieces of federal theory": "When once an effective national government is established the best

14. For Schmitt this contradiction doomed attempts to form pseudo-federal arrangements such as the League of Nations from the very beginning. Cf. Carl Schmitt, *The Crisis of Parliamentary Democracy*, trans. by Ellen Kennedy (Cambridge, MA: MIT Press, 1985). Mogi was not unaware of Schmitt's relevance. He discusses Schmitt's theory of sovereignty and critique of the League of Nations in the conclusion of his study. Schmitt's insights, however, are not incorporated into Mogi's earlier sections, including the one on the US. Cf. Mogi, *op cit*, Vol. 2, pp. 1099-1107.

15. *Ibid*. For an account of the development of "super-legality," see Carl Schmitt, "The Legal World Revolution," in *Telos* 72 (Summer 1987), pp. 73-90.

16. Such criteria are elaborated by Mogi: "the strong feeling of sovereignty of each state, the prejudice against the national government, and expenditure on the affairs of Congress according to the value of land resulted in the impossibility of an adequate functioning of this Confederation." *Op. cit.*, Vol. I, p. 49.

17. *Ibid.*, p. 36.

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men in the country will not only consent to serve, but will generally be appointed to manage it."[18] According to Mogi, Hamilton proved to be more advanced than his European predecessors when he proclaimed in Federalist 23 that "we must extend the laws of the federal government to the individual citizens of America."[19] This, however, is precisely what Schmitt identified as the main shortcoming of American federalism, which eventually brought about its statist demise.[20]

Hamilton's extension of federal law to individual citizens is precisely what undermines federalism. The only *raison d'être* of federalism is to guarantee the local autonomy of the units. To define federalism as anything else confuses the issue. American federalism took shape in the course of a nation-building project well underway by the late 1780s, by which time the units were neither equal nor distinct jurisdictional entities (what Schmitt saw as a necessary preconditions for a viable federalism) but, at best, regional blocs. In fact, the possibility of two or three confederations was openly discussed before the end of the 18th century. At the time local autonomy may have been better served in some cases by an imperial arrangement with Britain or Spain.[21]

Federalism and Statism

While today Mogi's specific views are not unusual, some of the very features he points to as characteristic of federalism are precisely those unique to statism. Mogi's work is, however, unusually comprehensive, with a focus and thoroughness conspicuously lacking in more recent scholarship. For some time, federalism has been viewed as the eternal principle of American government. As a result, the very definition of federalism in the US has been routinely confounded with central statism, obscuring the historical development of the latter and occluding the possibility of real federalism as a concrete alternative to it.

There are rare exceptions to this trend.[22] Lowi, for example, indicts

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18. *Ibid.*, pp. 50-1.
19. *Ibid.*, p. 55.
20. See Carl Schmitt, "The Constitutional Theory of Federation (1928)," *op. cit.*
21. Such was the perspective of some combatants for state independence in the frontier regions of Vermont and Kentucky in the aftermath of the American Revolution. Cf. Thomas P. Slaughter, *The Whiskey Rebellion: Frontier Epilogue to the American Revolution* (New York: Oxford University Press, 1986), pp. 29-4; and Peter S. Onuf, *The Origins of the Federal Republic: Jurisdictional Controversies in the United States, 1775-1787* (Philadelphia: University of Pennsylvania Press, 1983).
22. Thus, Lowi has explicitly construed federalism and statism to be at odds. See Theodore J. Lowi, "Why There Is No Socialism in the United States: A Federal Analysis," in Robert T. Golembiewski and Aaron Wildavski, eds., *The Costs of Federalism: In Honor of*

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federalism for obstructing a national policy-making process, while Bensel traces "the centralization of national authority" with the Civil War. While remaining silent on the issues at stake for democratic government, Bensel's account is nonetheless valuable for its documentation of a pivotal episode in "American political development" and the fate of American federalism. Much of the "state-building" literature, beginning with Skowronek's account of centralization at the turn of the 20th century when the federal arrangement of courts and parties was transformed, is descriptively informative, while missing the political implications of statist developments.[23] In the absence of concerted criticism, the literature tends to assume the standpoint of the welfare state and project some version of an increasingly bankrupt European social democracy in the US. Indeed, the state-building literature's main objective appears to be to illuminate the opportunities, past and present, for central state administration.

While not directly applicable to the immediate tasks of would-be adminstrators, recent state-building studies are continuous with the public administration literature of the 1940s — works which dealt explicitly with American federalism. Thus White's *The Federalists* (1948), one of several books dealing with early presidential administrations and their critics, is a typical example of the trend. White's book evaluated the Federalists as pioneers in, or at least precursors of, public administration. Accordingly, "the Federalists succeeded in creating most of the administrative machinery necessary to support an expanding industrial economy."[24] Thus White traced the emergence of the presidency as an institution, the conduct of "field" services, interdepartmental relations,

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James W. Felser (New Brunswick, NJ: Transaction Books, 1984). Similarly, Bensel's account is also unambiguous on the antagonism between regional autonomy and central state power, chronicling the national government's acquisition of policy-making power with the formation of direct relations between individual citizens and the central state. See Richard Bensel, *Yankee Leviathan: The Origins of Central State Authority in America, 1859-1877* (New York: Cambridge University Press, 1990). Neither Lowi nor Bensel, however, is minimally critical of statism and centralism. This is somewhat surprising in Lowi's case insofar as in some of his other works, particularly *The Personal President: Power Invested, Promise Unfulfilled* (Ithaca: Cornell University Press, 1985), he expresses alarm with the accretion of power to a national executive. In fact, Lowi prefers to empower the national legislature. For him a properly "juridical" centralization is not only acceptable, but ideal.

23. See Stephen Skowronek, *Building a New American State: The Expansion of National Administrative Capacities, 1877-1920* (New York: Cambridge University Press, 1982).

24. Leonard Dupee White, *The Federalists: A Study in Administrative History* (New York: Macmillan Company, 1948), p. 7. Not unexpectedly, this book was dedicated to Charles Merriam, one of the main architects of the American welfare state.

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the civil service, administrative discretion and legislative restraint, as well as the overall "state of the administrative art."[25] White's assessment of the Federalists extends beyond the usual discussion of the founding in terms of the Constitutional Convention and the *Federalist Papers* to consider the accomplishments of the first national administrations of the Federalist Party. The Federalist period, however, was by no means the heyday of public administration. It was not until the 1940s that public administration became institutionalized as a "field." In his efforts to trace the irreversible march of centralization, however, White cannot fail to note the underdeveloped state of 18th century administrative technology, the best of which was concentrated in the Treasury Department and the Customs Service under Hamilton. Otherwise, he is forced to admit that "the record corresponds more closely to the national levels of management skill than a relatively unadministered society could provide."[26]

Unlike many subsequent observers, White did manage to notice the difference between the Federalists' political theory and the founders' presumed "democratic federalism." Consequently, today White's public administration perspective appears surprisingly refreshing in as far as it does not attempt to obscure the founders' less than democratic predilections, while at the same time not deteriorating into a reductive and politically irrelevant "class analysis."[27] At any rate, White's assessment of the Federalists' "perception of sound public policy" — precisely the

25. "As an administrator," it seems, Washington was surpassed only by Hamilton, "the administrative architect of the new government"; it was Hamilton who "set out the first systematic exposition of public administration, a contribution which stood alone for generations. In his public life, he displayed a capacity for organization, system, and leadership which after a century and a half is hardly equaled." See White, *op. cit.*, p. 127.

26. *Ibid.*, p. 515. A similar glowing assessment by Lynton Caldwell also appeared in the 1940s: *The Administrative Theories of Hamilton and Jefferson: Their Contribution to Thought on Public Administration* [1944] 2nd edition (New York: Holmes and Meier, 1988). Caldwell neglects to consider, however, the "Anti-Federalist" position of such critics as Patrick Henry who would have left most administrative matters to sovereign states and localities in which the people would define their own, rather than the general welfare.

27. "The Federalist concept of public administration was firmly based on a political theory which, although anti-monarchical, was not warmly democratic. Federalists accepted the philosophy of government for the people, but not government by the people. In their view, government could only be well conducted if it were in the hands of the superior part of mankind — superior in education, in economic standing, and a native ability." Moreover, the "Federalist preference for the executive branch was a faithful reflection of their distrust of the people. An intelligent perception of sound public policy, in their view, could only come from well educated men of affairs, men with trained minds and broad experience — in short from the upper classes." This is a matter of political theory and not of the "class identity" of the founders, as some economic and sociological studies of the Constitution have contended. See White, *op. cit.*, pp. 508 and 510.

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statist notion of "public policy" — is at the center of current discussions of federalism, such as they are, albeit with far less self-consciousness.

In an example of current public policy approach, Lowi considers today's allegedly "new politics" as "more ideological, more moral, more directly derived from fundamental values, more intense, less utilitarian, more polarized, and less prone to compromise."[28] Could this have to do with a process of centralization reaching a critical point where it can no longer resolve conflicts at the national level? Do such issues suggest the existence of fundamental differences within "the public"? Not for "public policy" whose very existence presupposes an axiologically homogeneous "public" in reference to which national policy is always appropriate. Lowi sees the perennial recurrence of a salutary "radical politics" in the present tendency to forego "mainstream political processes, insisting instead on trying to convert political issues into moral polarities, claims into rights, legislation into litigation, grays into blacks and whites, and campaigns into causes and crusades."[29] But these politics have been around since the 1960s and 1970s, to the point of having become commonplace. Far from being a merely cyclical phenomenon, present-day "radicalism," both Left and Right, only takes the mainstream, including the whole "public policy" enterprise, to its logical conclusions. Public policy has always attempted to resolve all questions of values and practices in one particular way for all groups in society, thus flattening out differences and forcibly homogenizing an otherwise heterogeneous polity.[30] "Social regulatory policy" or "moral policy" is only the logical outcome of public policy as the national-statist resolution of differences — a quintessentially conformist and homogenizing project. Yet, as fashionable as such a trend may still be, it is increasingly becoming obsolete,

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28. Theodore J. Lowi, "Foreword" to Raymond Tatalovich and Byron W. Daynes, *Social Regulatory Policy: Moral Controversies in American Politics* (Boulder: Westview Press, 1988), p. xiii. The anthology itself says little about the federalist dimension of policy, beyond Lowi's foreword, and despite what ought to be the obvious relevance of the theme *vis-à-vis* "social regulatory" or "moral" policy questions. The chapter topics of school prayer, pornography, crime, gun control, affirmative action and abortion are all fruitful territory for discussion of questions of federalism, but instead these chapters are neatly and uniformly divided into sections comprised of brief and bland descriptions of interest group, judicial, presidential, congressional and bureaucratic involvement and "public opinion" synopses gleaned uncritically from one or another poll. "Federalism" appears as just one more entry dealt with in a couple of paragraphs of cursory and inconclusive descriptions and anecdotes.

29. Lowi, "Foreword," *op. cit.*, p. xii.

30. For an elaboration of this statist predicament, see Frederick Johnstone, "Quebeckers, Mohawks and Zulus: Liberal Federalism and Fair Trade," in *Telos* 93 (Fall 1993), pp. 2-20.

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challenged as it is by the development of multiculturalism and the irreversible decline of highly centralized national governments.

Lowi's conclusion that ". . . political leaders can radicalize politics by adding a moral dimension to policy" is hardly helpful.[31] Policy always has a moral dimension. With national (public) policy, that dimension usually means, especially today, the imposition of the morality of one part over other parts of the population. Some group's morality becomes "policy" while another's is rendered obsolete or even criminal. Ultimately, however, it is *popular practices* in all their diversity that legitimate or delegitimate "public policies" and not vice-versa as the nation state at its most arrogant and presumptuous would have it. Alternatively, a given morality may be generalized into "public policy" in limited local contexts where citizens rather than politicians or administrators may be able to negotiate an acceptable set of policies within a particular territory — which is not to say that there would not be internal conflicts. Such conflicts, however, may be resolved by those most directly concerned and by means of their own choosing without being generalized over the heads of people inhabiting specific communities. Conversely, the consequences of detrimental policies may be both contained to those who agree to them and within local power to alter once these consequences are directly experienced — a situation which would be sharpened in the absence of any moderating mediation from a central government enforcing not universally recognized "universal" rights. A given morality may subsequently be generalized through accord among the localities themselves. But this can only occur after local authority is able to make such collective and genuinely democratic decisions. Most conflicts need not be extended beyond the local contexts in which they arise and in which people in meaningful contact with one another may find themselves in disagreement over matters of mutual concern, unless they are matters pertaining to the basis of federation itself and *specifically* designated as falling within federal jurisdiction. Such matters are necessarily limited, lest federation be rendered redundant by the pre-existence, or "federal" imposition, of a deeply homogeneous social entity. Either federalism is unnecessary in so far as genuine democracy reaffirms the existence of a single community, or it is inconsequential, with all important questions decided at the most general level.

At any rate, strictly speaking, there is nothing especially new about the "new politics." In his account of 19th century public policy, Nelson

31. Lowi, "Forward," *op. cit.*, p. xvi.

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notices exactly the same problems emphasized by Lowi and his students in regard to post-1960s "social regulation."[32] Nelson claimed there is a fundamental difference between policy that is "expedient" or "instrumental," on the one hand, and that which is "moralistic."[33] Both, however, were equally centralizing and the institutionalization of "expedient" policies (e.g., the Fugitive Slave Act of 1850) leads to institutionalizing "moralistic" ones (abolitionism). A government that could implement one could just as easily implement the other. The problem is not "moralism" or "instrumentalism," but centralism.

Originally federalism began to be abrogated in the slavery issue when the nationalizing government moved to enforce Southern slavery nationwide well before the Civil War, in an effort to consolidate central powers. As usual in these kinds of policy discussions, federalism is far from Nelson's concern. His regret is that "anti-slavery moral precepts" were too much derivative of classical liberalism's protection of individual rights for central government to advance far enough in completely "restructuring" Southern society after the war. Hence what resulted was the "failure" of radical Republicans of the Reconstruction Era "generally to enact their moral principle into law." Nelson blames this failure to push moral policy further for the radical Republican's "legacy to the twentieth century": "a series of institutions — the precursors of modern bureaucracy — that have an amoral character."[34] Such a conclusion, however, overlooks the direct impact of precisely such moral policy-making on the establishment of bureaucracies to administer it — however inconsistent or confused that policy (not surprisingly) was. Administration has always overestimated its own potential efficacy. Nelson does offer some general insight into American political history — insight which belies the contention that "moral policy" is altogether "new." The period 1820-1850, in particular, was one of frequent compromises between sectional groups with divergent policies and viewpoints. And when compromise did not occur, losers

32. William W. Nelson, *The Roots of American Bureaucracy, 1830-1900* (Cambridge, MA: Harvard University Press, 1982).

33. As a nationalizing policy, the Fugitive Slave Act was upheld because, as Chief Justice Lemuel Shaw of Massachuetts put it, "on no other terms could a union have been formed between North and South." (Quoted in Nelson, *op. cit.*, p. 55). The abolitionists, for their part, employed an equally nationalizing (if supra-legal) reasoning. Whereas "the judiciary . . . found enforcement of the act essential to the continued preservation of the nation," the abolitionists viewed "[t]he new act . . . as contrary to the higher law of every man's own conscience." The federal government in the former case had generalized a particular morality and practice — that of the South. With the Civil War it simply switched sides.

34. *Ibid.*, p. vii.

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in the national political forum could present their moral arguments to state forums, which often agreed with them and which possessed significant though indeterminate power to interfere with enforcement of national legislative policy.[35] This state of affairs changed indeed after 1850.

Daniel J. Elazar and "Intergovernmental Relations"

Conflation of federalism and pluralism is precisely what distinguishes a large corpus of writing headed by Daniel J. Elazar, who has written or edited some eighty books on federalism as well as launched a journal, *Publius*, through the "Center for the Study of Federalism" at Temple University since the early 1960s. The subtitle of Elazar's 1962 work, "Intergovernmental Co-operation in the Nineteenth Century United States," summarizes his argument to this day and frames a body of literature which has spawned its own political science subfield of "intergovernmental relations."[36] Elazar was a student of Morton Grodzins, for whose works Elazar filled in the requisite historical material to support the idea that intergovernmental co-operation was not a uniquely 20th century development, to be contrasted with a thriving "dual federalism" of the 19th century.[37] According to the "theory" of "dual federalism," state and central governmental functions were clearly distinguished from one another. That is to say, there was life before centralization.[38] According to Grodzins, the political norm in the US was always what intergovernmental relations claims it is now.

The significance of this thesis becomes clear once it is realized that "intergovernmental relations," as opposed to "dual federalism," has long served as a euphemism for centralization. Grodzins claimed, and Elazar set out to support, that the 19th century was also a time of much

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35. *Ibid.*, p. 158. Thus, Nelson counterposes a rising "majoritarianism" in the 19th century not with federalism but with pluralism, and it is this opposition that Nelson identifies as the source of yet "unresolved tensions."

36. Daniel J. Elazar, *The American Partnership: Intergovernmental Co-operation in the Nineteenth Century United States* (Chicago: University of Chicago Press, 1962).

37. See Daniel J. Elazar, ed., Morton Grodzins, *The American System: A New View of Government in the United States* (Chicago: Rand McNally, 1966); Grodzins, et al., *A Nation of States: Essays on the American Federal System*, Robert A. Goldwin, ed., (Chicago: Rand McNally, 1963). For Grodzin's more obscure contributions, see his *The Loyal and the Disloyal: Social Boundaries of Patriotism and Treason* (Chicago: University of Chicago Press, 1956) and his pamphlet in storage in Cornell's Management Library, *Public Aministration in the Science of Human Relations* (Ithaca: Cornell University Press, School of Business and Public Administration, 1954).

38. In his forward to Elazar's *The American Partnership*, *op. cit.*, Grodzins explains that Elazar's book revised the long-standing thesis of Lord Bryce of " distinct and separate" state and national governments.

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much "intergovernmental co-operation" and "power-sharing" between the states and federal government. In other words, things were always roughly what they were by the early 1960s. In fact, the 19th century was one of enormous turmoil concerning the nature of federalism, beginning with the turnover in national administrations and proceeding through the "nullification crisis," the Civil War and Progressivism.

Grodzins and Elazar, however, only end up trivializing the real issue by erecting the "dual federalist" straw man. Dual federalism is not some hermetically sealed "standoffish separation" but, rather, a matter of jurisdictional authority distinguishing periods in constitutional history as a result of the historical introduction and subsequent evolution of new governmental tasks at the national level. This is hardly controversial in any branch of political science apart from "intergovernmental relations," which seems to have been invented in order to deny the simple fact of centralization in American government. White, for one, had no trouble recognizing this from the perspective of a federal adminstrator who welcomed the changes.[39]

The relative success of Elazar's book was part and parcel of the time in which it appeared: It is a veritable showcase of "frontiers," old and new, and of the Great Society that was to spearhead further transformations in the national-local balance of power. Elazar was on hand to deny the radical significance of these developments in terms of federalism. He set out to establish that American federalism was essentially always what it became under the Kennedy-Johnson administrations, culminating in Johnson's "creative federalism" gimmick to diffuse criticism while distributing the task of implementing his programs. The political role of the new literature was clear. Elazar began the revised 1972 edition of his *American Federalism: A View from the States* (first published in 1966, on the occasion of the founding of the Center for the Study of Federalism)[40] with the following observation on the intervening years: "One thing that has changed is public recognition of intergovernmental collaboration as the norm in American political life. President Johnson was particularly responsible for publicizing this fact. It was he who pointed out to large audiences over and over again that power is not a fixed quantity but an expanding one so that the expansion of federal power does not

39. Leonard D. White, *The Federalists*, *op. cit.*

40. According to Elazar, the Center was also meant to continue the work of the "Workshop in American Federalism" at the University of Chicago during the 1950s. See Elazar, ed., *Constitutional Design and Power Sharing in the Post-Modern Epoch*, The Jerusalem Center for Public Affairs/Center for Jewish Community Studies (Lanham, MD: University Press of America, Inc., 1991), p. xiv.

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necessarily mean a diminution of the powers of the states and localities but, on the contrary, can even mean an expansion of their powers."[41]

In a similar vein, Grodzins writes of Elazar's *The American Partnership*: the importance of his work "lies in what it tells us about contemporary American government. A recent editorial in a Chicago newspaper opposes federal aid to education on the grounds that, historically, schools were an exclusive local concern and that, in any case, federal grants to states and localities were an evil invention of the New Deal and an aberration of traditional American standards. Even a casual reading of this book shows, on all scores, how absurd that argument is. One cannot hark back to the good old days of state and local independence because those days never existed . . . ."[42] In respect to education, this is patent nonsense. Abrogation of federalist principles, however, did begin early on, as is confirmed by the only critical literature on American federalism: the Anti-Federalist critique of the Constitutional Convention, the Constitution, and its authors for seeking to centralize government. At the same time, however, most centralization had to await innovations in communication that made it possible for the central state even to attempt to administer the affairs of often remote localities. It is indisputable, moreover, that the 20th century brought substantial advancement in the degree and kind of centralization of American government — from the Progressive Era, the New Deal and subsequent war mobilization and reconversion policies of the 1940s, to the fuller integration of foreign and domestic economic policy during the 1950s and the civil rights and social welfare reforms of the 1960s. Though it served a political purpose at the time, the "intergovernmental relations" literature pioneered by Grodzins and Elazar is extraordinarily drab and, partly for that reason, rarely read. It has also engaged little interest because much of what it asserts is so thoroughly taken for granted that it is by now wholly unnecessary to prove anything along these lines.[43]

At any rate, Elazar's arguments were hardly sufficient to convince anyone. His role was primarily that of an academic cheerleader for the prevailing administration. His study of the 19th century "proceeds from the assumption that this is 'an indestructible Union of indestructible

41. *American Federalism*, *op. cit.*, pp. v-vi.

42. Grodzins, "Preface" to Elazar, *The American Partnership*, *op. cit.*, pp. vii-ix.

43. This state of affairs, however, is beginning to change. Today, after the collapse of bureaucratic centralist regimes within the Soviet Empire and during a period of growing crises of European social democracy, centralization can hardly be assumed as either inevitable, desirable or even viable. The crisis of ungovernability, in fact, seems to point in the opposite direction.

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ible states' in which the states and the federal government are in theory and in fact equally vital." Because of this "assumption," he claims he cannot be accused of attempting to "rewrite history from a centralist point of view"; and, to add insult to injury, he claims to have adopted "the vantage point of the states."[44] Naturally enough, having assumed that no significant change has occurred in the basic arrangement of "intergovernmental relations," Elazar has no trouble projecting current governmental practices backward to the origins of the Union. Even where "dual federalism" (or "states' rights") was the prevailing theory, Elazar finds that throughout the 19th century "co-operative federalism" was uniformly the practice as "[t]he particular logic of political reality pushed the actors toward more formalized co-operation in practice, even when they spoke of the separation of functions in theory."[45]

Such "formalized co-operation" is, to Elazar, the meaning of the word "federalism." All American political tendencies can thus be homogenized. Hence, even such an outspoken 19th century critic of centralization as John C. Calhoun can be designated "perhaps the greatest single architect of the system."[46] To establish his claim of 19th century harmonious "intergovernmental relations" and "shared power," Elazar identifies four "hard cases" — states in which independence and hostility *vis-à-vis* central government ought to be anticipated but which, in fact, prove to have been surprisingly "co-operative" in their development over the course of the century.[47] Even cursory consideration of Elazar's cases, however, reveals considerable softness.

One such case is Minnesota, a "Progressive" northern midwestern state, which, like Wisconsin, in its state-level centralization experiment helped to draw up the plans, by providing an early prototype, for nationwide centralization. The fact that, in an important sense, the states centralized first should remind one that centralization is not simply a matter of the relation of states to federal government, but one involving the accountability, accessabilty and democratic-participatory character of any governments from the federal, down to the state, the county, the city or the ward. The "intergovernmental collaboration" model can just as easily (in fact, more convincingly) be taken as evidence of this pervasive centralization process, rather than as an alternative historical scheme which, with a lot of double-talk, denies that centralization has

44. Elazar, *The American Partnership*, *op. cit.*, p. 2.
45. *Ibid.*, p. 1.
46. *Ibid.*, pp. 32-3.
47. *Ibid.*, pp. 2ff.

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even really occurred. Indeed, how could the federal government expand and penetrate the continent without forming a network of subsidiaries to help administer an ever enlarging land mass which, only gradually, with the development of communication, transportation, and administrative technologies, fell under more direct and complete central control? Such was precisely the meaning of Johnson's "creative federalism" — that and sharing the heat of unpopular policies. Washington could hardly exercise control all by itself. Here it is possible to retain some aspects of Elazar's periodization as stages of centralization.[48] The same can be said of Colorado — another western state, formed by public land grant in the course of the same westward imperial expansion which largely cemented national consciousness. Colorado saw almost constant federal presence to maintain and extend the frontier and, unlike the earlier frontier states of Vermont and Kentucky, relied effectively on federal law enforcement. Then there is Virginia: reputed home of "states' rights." It was the home of the first presidents (the Virginia Dynasty) and the Virginia Plan, which proposed even more drastic centralization than was adopted in 1787. Several secessionist movements formed against what neighboring regions viewed as the imperial power of Virginia. It was hardly a paragon of state autonomy.[49]

As newer states, Elazar points out, Minnesota and Colorado always had a relatively high proportion of their budgets underwritten by federal funding.[50] From the very beginning, Minnesota's federal land-grant programs (supplemented by money and services) in everything from education to internal improvements and social welfare tied the state to the federal government. It is an understatement to claim, with Elazar, that "[i]ntergovernmental collaboration in Minnesota antedated statehood."[51] The Sioux uprisings in 1862 and 1876 only solidified the bonds. The federal government created Minnesota, as it did other western states, in contrast to the development of the original thirteen, and unlike

48. It is instructive that "[b]y mid-century, the states admitted to the Union after ratification of the Constitution outnumbered the original thirteen. Though not all the former were public-land states, all except Maine and Vermont shared in the problems of the West. They provided the support necessary for the establishment of the land grant as a major means of implementing national policy. The Land Grant College Act of 1862 marks the triumph of this policy by its application to all the states, east and west." *Ibid.*, p. 314.

49. See Glenn A. Phelps, *George Washington and American Constitutionalism* (Lawrence, KS: University Press of KS, 1993), which traces Washington's constitutional *nationalism* in part to Virginia's political culture.

50. Elazar, *The American Partnership*, *op. cit.*, p. 292.

51. *Ibid.*, p. 291.

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the fourteenth and fifteenth states — Vermont and Kentucky — which fought their own battles for state sovereignty.[52] One can hardly speak of "collaboration" among equals when some of those parts (the land grant states) were literally called into existence by the center.[53]

Elazar's whole account is peppered with praise for the westward expansion, which becomes a motif for subsequent "frontiers" with a mission: "Since our nation is dedicated to the task of providing opportunity for each individual to engage in the pursuit of happiness in a manner as nearly approaching his own definition of that goal as is socially possible, the disposition of the major national resource, the public domain, in a manner consistent with that high purpose continued to be a leading problem."[54] In retrospect, Elazar's interpretation was part and parcel of the ideology of the Cold War. Centralization in the US, however, proceeded along lines remarkably similar to its course in the USSR. Each also had its own justification for expanding imperial as well as national power. Elazar was a natural, if often incoherent, spokesman for US expansion. For him, as in the 19th century, so in the 20th: "Out of [westward] expansion arose a number of major problems that required governmental consideration. . . : internal improvements, education, . . . disposition of the public domain. . . [and response to] the attempt to spread slavery to the land frontier. It should be noted that each of these major categories has its counterpart in the twentieth century, which has required governmental action just as its forerunner did."[55] A more comprehensive consolidation of the nation, however, had to await subsequent advancement in communication and transportation technology.

Elazar's political history hinged on what he saw as an original and enduring "tension" between "confederal" or "Whig" ideas on the one hand and "federal" i.e., those of the Federalists, on the other. Both, he

52. In other works Elazar disputes this point about the thirteen colonies, elaborating instead a comforting myth of mutual and simultaneous nation and state origin — a contention in direct conflict with the very notion of federation which requires that sovereign units come together for the purpose of creating a federal power to oversee particular functions which only they designate as "general."

53. It was to head off the secessionist insurgency of the western frontier that the land grant ordinances were adopted. As a result, settlement of the Ohio Valley was carefully controlled and defended by the federal government.

54. *Ibid.*, p. 299. See also Elazar's *Cities of the Prairie: The Metropolitan Frontier and American Politics* (Lanham, MD: University Press of America, Inc., 1970) and *Cities of the Prairie Revisited: The Closing of the Metropolitan Frontier* (Lincoln: University of Nebraska Press, 1986). Elazar's "metropolitan frontier" refers likewise to the centrally-directed phase of expansion. Vermont, for instance, was no "public domain."

55. *Ibid.*, p. 298.

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argued, are contained in the Constitution and are deeply embedded in American political culture. According to Elazar, "the roots of that tension lie in the effort to combine federal liberty with good government."[56] This is empirically true, but it is not at all consistent with the idea of federalism — "modern" or otherwise. Like Mogi, however, Elazar identified "modern federalism" with the US founding.[57] Characteristically, Elazar's "federalism" as "form" meant a ubiquitous informing "principle" more than any institutional arrangement, much less a straightforward question of jurisdictional authority. Accordingly, "the foundation of the United States was a federal act par excellence" — including, significantly, the Declaration of Independence — "We, the People," not "We, the States."[58] This "original federal act" established the simultaneous emergence of both the federal government and the states.[59] This was a revision of the long-standing view — based on simple chronology as well as an understanding of the meaning of the word "federation" that the colonies as self-governing entities preceded their federation into a "united states." In other words, the states — the thirteen colonies which agreed to federate — authorized a federal government. For Elazar, "federalism" need not refer to self-governing units which consciously seek federation for limited and clearly specified purposes. Rather, a federation rests on a social "compact," the secularized version of a "covenant." The covenanting units need not be social entities (i.e., communities) at all. They may be individuals as well — as they were in, to cite Elazar's example, the Mayflower Compact. "Covenant" could refer to a town or a congregation.

Elazar's claim that American political culture is marked by "diversity in unity," then, boils down to a Cold War pluralism with a peculiar "theological" twist. Puritan "federal theology" concerns an agreement among individuals who come together to form the religious forerunner of a "civil society."[60] As conservative as this "theological" account

56. *The American Constitutional Tradition* (Lincoln: University of Nebraska Press, 1988), p. 139.

57. "At the time of the first colonial settlements in British North America, the Dutch and the Swiss were pioneering the development of federal politics whose links were post-feudal in character yet not quite modern. It remained for the United States to invent modern federalism in its full form." *Ibid.*, p. 13.

58. On the relation between the Declaration of Independence and the Constitution see Martin Diamond, "Democracy and the Federalist: A Reconsideration of the Framers' Intent," in *American Political Science Review*, Vol. 53 (1959), pp. 52-68.

59. Elazar, *American Constitutional Tradition*, *op. cit.*, p. 14.

60. "The religious expression of federalism was brought to the United States through the federal theology of the Puritans, who viewed the world as organized

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sounded, its function *vis-à-vis* the prevailing regimes was to support the changes they wrought, legitimating them, as it were, as authentically "American," eminently "traditional," and by all means, "constitutional." But Elazar's "covenant theory" of federalism — a half-baked theology warmed over to an even less digestible political theory — is so amorphous and all-inclusive that it seems as though virtually everything "American" is "federalist" and everything "federalist" is "American."[61]

Far more preferable and credible than this poorly recycled Enlightenment Rousseauian myth of originally free individuals coming together to create *ex nihilo*, is the Proudhonian concept of "integral federalism" which stresses not "covenant" but "subsidiarity" — the principle that jurisdictional authority tends toward devolution to the smallest constituent unit unless there is some reason why it should not for particular questions.[62] Which questions would be given over to federal jurisdiction (e.g. common defense, foreign policy, internal trade and currency) would be decided in every case by a majority of the constituent units.[63] Such a principle cannot, like Elazar's, be applied equally to individuals

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through the covenants God had made with mankind, binding God and man into a lasting union and partnership to work for the redemption of the world, but in such a way that both sides were free as partners must be to preserve their respective integrities. This daring notion lies at the basis of all later perceptions of human freedom, since only free people can enter covenants. Thus, implicit in the Puritan view is the understanding that God relinquished some of His omnipotence so humans could be free to compact with Him." *Ibid.*, p. 16. For the original impetus for Elazar's interest in "covenant theology," see the numerous historical works of Perry Miller, including *The New England Mind* [1939] (Boston: Beacon Press, 1953) and *Errand into the Wilderness* (Cambridge: Harvard University Press, 1956). See also Elazar's colleagues Donald S. Lutz and Jack Warden, *A Covenanted People: The Religious Traditions and the Origins of American Constitutionalism* (Providence: John Center Brown Library, 1987) and John Kincaid and Daniel J. Elazar, *The Covenant Connection: Federal Theology and the Origins of Modern Politics* (Durham: Carolina Academic Press, 1988).

61. "According to federal theology, all social and political relations are derived from that original covenant. Thus communities of believers had to organize themselves by covenant into congregations, just as communities of citizens were required to organize themselves by covenant into towns . . ." Elazar further insists that "Even after the eighteenth century secularization of the covenant idea, the behavioral pattern persisted, to resurface on every frontier, whether the miner's camps of southwestern Missouri, central Colorado, and the mother lode country of California or in the agricultural settlements of the upper Midwest." *The American Constitutional Tradition*, *op. cit.*, pp. 16-17.

62. See G. L. Ulmen, "What is Integral Federalism" in *Telos* 91 (Spring 1992), pp.135-149; and Ludger Kühnhardt, "Federalism and Subsidiariy," in the same issue, pp. 77-86.

63. Pierre-Joseph Proudhon, "Du Princip Federatif," in *Oeuvres Posthumes* (Paris: Librairie Marcel Riviere et Cie, 1959), Vol. 18, pp. 254-551. In the 20th century, however, integral federalism has been corrupted by Proudhon's followers to the point that it is practically indistinguishable from "really existing" American federalism. Not surprisingly, Elazar can equate it with his version of pseudo-federalism. See Daniel J. Elazar, "Our

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as "units," but rather only to political communities (e.g., states, counties, towns, villages/municipalities, wards and perhaps households). Substituting individuals for communities in his "federal theology," by contrast, Elazar's federalism proves to be none other than a repackaged pluralism — wrapped in the trappings of "the American constitutional tradition." Ultimately federalism collapses into its opposite — liberalism — as Elazar defines federalism as a "combination of individualism and involvement in organized society."[64] Federalism is precisely what is missing from this description: the existence of smaller, intermediate units which minimize the direct interaction of individuals with a single, monolithic "organized society."

Federalism as Liberalism?

This kind of pseudo-reconciliation of federalism and liberalism is typical of the academic literature to which Elazar, despite occasional protestations to the contrary, is an early and consistent contributor. Thus, for O'Toole, "intergovernmental relations" is, like Elazar's "federalism," essentially a stand-in for pluralism: "power is shared" in the sense that "nearly any change requires mutual accomodation among several levels of government."[65] O'Toole refers to American federalism as a "related topic," and indeed it is. For the most part, the intergovernmental relations discussants are not even marginally concerned with federalism whose decline into virtual irrelevance is a widespread assumption among political scientists. The preponderance of attention directed at federal grant structure and administrative procedures suggests that much has already been assumed. If, for example, "block grants" are so much more favorable to states than "categorical grants," it is only because a prior fiscal centralization has already taken place. It then becomes a

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Thoroughly Federal Constitution," in Robert A. Goldwin and William A. Schambra, eds., *How Federal is the Constitution?* (Washington, DC: American Enterprise Institute for Public Policy Research, 1987), p. 43.

64. Elazar, *The American Partnership*, *op. cit.*, p. 18. Elazar tries to reduce federalism to liberalism precisely when their mutual compatibility becomes highly problematic. Whereas the liberal state had allowed diversity, the welfare state penetrates everyday life, homogenizing all cultural specificity and thereby destroying federalism. At the same time the welfare state generates both a multicultural reaction and a crisis of governability. For an analysis of this gradual involution, see Paul Piccone, "The Crisis of Liberalism and the Rise of Federal Populism," *op. cit.*

65. Laurence J. O'Toole, "The Modern Pattern: Interdependence, Complexity and Intergovernmental Bargaining," in O'Toole, ed., *American Intergovernmental Relations: Foundations, Perspectives, and Issues*, 2nd ed. (Washington, DC: Congressional Quarterly, Inc., 1993), pp. 16-17.

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matter of what the federal government "gives" to other levels of government, and with what conditions attached.[66] This situation is far from federalism. At best it approximates a "federal state," which utilizes localities as administrative units while decisive authority remains unequivocally with the center. Well within the tradition of Elazar's "power-sharing," however, the field of "intergovernmental relations" assumes that there is no specific locus of power and no hierarchy among governing units. There is, rather, an overriding "complexity" of these interrelations as there is in all aspects of modernity. Like Elazar, O'Toole speaks of "the pluralism of the intergovernmental system."[67] Such a system appears as the natural result of modernity: the inevitable outcome of public policy needs, the preference of organized interest groups and of state-level bureaucracies which looked to federal government as a source of funding. All of this is assumed as self-evident. Attempts to return power to localities, however, are deemed impossible and ill-conceived as they could result in "inequities," thus violating an unquestioned public policy criterion of proper "intergovernmental relations."[68]

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66. On state legislative control over "federal funds," see James E. Skok, "Federal Funds and State Legislatures," in O'Toole, ed., *op. cit.*, pp. 265-71.

67. O'Toole, "Intergovernmental Relations: An Overview," in *Ibid.*, pp. 5ff. The focus is on "fiscal federalism," discussion of which consists of delineation of various types of federal grants and their stipulations. Categorical grants, which specified each grant's purpose, are contrasted with block grants and revenue sharing, which are given with fewer strings attached, and with formula and project grants, for which the federal government determines criteria of recipient eligibility. Grants are not an issue of power, but are merely illustrative of the complexity of inter-relations in modern times, which, for O'Toole, begin in the 20th century. It is during the New Deal period that "in many areas of domestic policy, two or three levels of government were tied together in intricate patterns of intergovernmental relations — much like a 'marble cake,' rather than a 'layer cake' of dual federalism." Hence the norm of "interdependence" is gradually realized, as "[t]hrough the necessity of resolving jurisdictional disputes . . . federal and state governments found it necessary to recognize their interdependence."

68. See especially pp. 11-12. Deil S. Wright contributes to the "power sharing" view with an account of "overlapping" authority rather than either hierarchy or autonomy in relations among levels of government. See also Wright's *Understanding Intergovernmental Relations*, 3rd edition (Monterey, CA: Brooks/Cole Publishing Co., 1988) and David B. Walker's *Toward a Functioning Federalism* (Cambridge, MA: Winthrop, 1981), which emphasizes the complex or "overloaded" nature of intergovernmental relations. On federalism as a state of "partial conflict" and negotiation in policy making, see Thomas J. Anton, "American Federalism and Public Policy: How the System Works," *Brookings Review*, No. 4 (Winter-Spring 1986). Harry N. Scheiber offers some incisive criticisms of the "intergovernmental relations" approach, including Elazar's, but he falls back on a Madisonian "middle ground which may at once support a due supremacy of the national authority, and not exclude the local authorities wherever they can be subordinately useful" — hardly a federalist position. See Scheiber, "The Conditions of American Federalism: An Historian's View," in O'Toole, ed., *op. cit.*, p. 73.

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Aside from illuminating the mechanics of federal funding and administrative procedures, intergovernmental relations has considered the important subject of the federal courts' role in mediating relations between states and the central government.[69] Thus, A. E. Dick Howard blasts one of the latest of numerous Supreme Court decisions for undermining what he presumes to have been the federalist intent of the founders.[70] Like Elazar, Howard bases the legitimacy of federalism on that of the Constitution: it exists, it is written and, therefore, should be unassailable. He then adopts a sort of compromise position by separating the question of states' autonomy from that of the federal role in the "private sector," where "individual rights" reside. Howard thereby proposes a pseudo-reconciliation rather than a confrontation with conflicting principles of local autonomy versus federal jurisdiction to enforce "civil rights." Consequently, he fails to grasp the relation between national sovereignty and individual rights. It is simply not the case that ". . . federalism as such can operate as a part of the very matrix of protection for individual liberties" — at least not in the way he suggests, i.e., in terms of universal rights. If the federal government relates directly with individuals independently of the states then there is no *federalism* but a *unitary* national government where the states function only as lower administrative units.[71]

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69. The theme is treated by Martha Derthick in "The Structural Protections of American Federalism" and by Margaret T. Wrightson on the role of the Supreme Court in determining federal arrangements, in Harry N. Scheiber, ed., *North American and Comparative Federalism: Essays for the 1990s, Berkeley Seminar on Federalism Series* (Berkeley, CA: Institute of Governmental Studies Press,1992), pp. 9-25. This series of conference proceedings is a good source of "intergovernmental relations" literature. Wrightson, reprinted from *Publius* in O'Toole, ed., *op. cit.*, chapter 24. George Brown considers the upsurge in litigation over grants in "The Courts and Grant Reform: A Time for Action," in O'Toole, ed., *op. cit.*, pp. 164-72.

70. A. E. Dick Howard, "*Garcia*: Federalism's Principles Forgotten," in O'Toole, ed., *op. cit.*, pp. 176-8. See also Advisory Commision on Intergovernmental Relations, *Federalism and the Constitution: A Symposium on* Garcia (Washington, DC: Advisory Commission on Intergovernmental Relations, 1987).

71. This is the same confusion found in most 20th century definitions of American federalism. Bland statements such as "federalism. . . bolsters other constitutional values" and "it is an intrinsic component of the constitutional system," obscure the tension within the Constitution between nationalizing and federalizing principles. Not surprisingly, Howard proposes a crassly instrumental role for local government; instead of a locus of real policy making, it becomes an experimental laboratory for potential national policy. This could mean something very different if localities actually had some direct voice in federal policy, but as matters stand such an experimental function merely provides administrative technology at the disposal of the center.

A flip side of the states-as-laboratories position is defended by Thad L. Beyle, who shows how developments within states have mirrored those of the national government

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Riker, Truman and Grodzins have all stressed the significance of the party system, counter to the trend of federal court involvement, to *maintaining* federalism.[72] For Riker, "variations in the federal relationship, especially variations in the ability of constituent governments to conflict with the central government, depend on variations in partisan relationships between the two [sic] levels."[73] The real question, however, is not when are there conflicts, but rather, how such conflicts tend to turn out and why. The trend, as it turns out, is not toward maintaining federalism, but toward undermining it. Rather than acknowledge this, however, Wildavsky marshals Elazar's work at its most ideological, warning against "myths concerning the glorious past" (i.e., before centralization): "Elazar shows that there was in the nineteenth century a great deal more cooperation between state and nation than has been supposed. Evidently, there is also more continuity between the past and the present than we like to believe." In other words, get with the program! — a sentiment repeatedly restated: "I find the debate on federalism shopworn and less and less meaningful as time goes on."[74]

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in the evolution of executive functions and resources and the emergence of a directly "policy-making role" along with the institutional mechanisms to implement it. See "The Governor as Innovator in the Federal System," in O'Toole, ed., *op. cit.*, pp. 145-56; reprinted from *Publius* No. 18 (Summer 1988), pp. 131-52. Given a devolution of functions to states which began with the Reagan Administration, governors are obliged to take the lead in policy-making. To recognize the existence of such top-down "policy making" at the state level fails to take into account the full implications of bureaucratized states. From a federalist perspective, empowerment of states is not enough. State and even local governments have been organized interest groups ever since the Johnson Administration when they were placed in a position of having to lobby Washington. See Donald H. Haider, "The Government Groups in the Policy-Making Process," in O'Toole, *op. cit.*, chapter 11, and Haider's book, *When Governments Come to Washington: Governors, Mayors and Intergovernmental Lobbying* (New York: The Free Press, 1974).

72. Aaron Wildavskyy, ed., *American Federalism in Perspective* (Boston: Little, Brown, 1967).

73. Riker in Wildavsky, *op. cit.*, p. 57. See also Riker, *Federalism: Origins, Operation, Significance* (Boston: Little, Brown, 1964).

74. Wildavsky, *op. cit.*, p. ix. The low point of Wildavsky's argument is his wholesale endorsement of Riker's utterly inferior "theory of federalism." The fact that Riker is still considered an authority on the subject speaks volumes about the state of "the literature." Anyone who in 1964 (when Riker was thinking about federalism) can characterize the Soviet Union as "federalist" and use that observation as an argument against the idea that federalism and freedom could have anything to do with one another is only a sloppy Cold War ideologist. Even Elazar appears sophisticated by comparison. Riker is patronizing and pompous in his ridicule of "the ideological fallacies" of federalism's defenders. His own view, however, is not only confused, but utterly conformist *vis-à-vis* the objectives of various nationalizing presidential administrations. See, especially, pp. 54-5 in Wildavsky. Small wonder that Riker has moved on to trendier topics, while the federalism he and Wildavsky pronounced dead in the mid-sixties has come back with a vengence. (Riker has since become the ultimate anti-populist technocrat with a "rational

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Consolidating the Union

In reaction to the recent resurgence in interest in federalism, Beer has taken issue with Reagan's pro-federalist rhetoric and, in the process, he has gone even further than Elazar in subverting the meaning of federalism. Arguing against Reagan's claim that the states preceded federation, as is necessarily the case if there is to be a federation, Beer cites Hamilton to the effect that the "American people must make vigorous use of its central government for the task of nation-building."[75] To the same effect Beer recalls Abraham Lincoln's declaration that "[t]he Union is older than any of the states and, in fact, it created them as States . . . ." Lincoln's "idea of the nation," Beer reminds all the know-nothings who supported Reagan's statements about the need to decentralize, "identifies the whole people of the nation as the source of the legitimate power of both the federal government and the state governments."[76] There is similar praise for the nationalist rhetoric of Daniel Webster. The argument for national authority is a familiar one, pitting single states, presumably capable of only narrow short-sightedness, against a collective nation looking out for the future and the common good: "Using the development of transportation after the peace of 1815 for illustration, Webster shows why a particular project within a state, which also has substantial benefits for other states, will for that very reason probably not be undertaken by the state within which it is located."[77]

Beer never considers why states or regions are, as he presumes, unable to agree among themselves for such specific projects. Elazar's colleague,

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actor theory of democracy," purporting to "prove," interestingly enough, how "arbitrary," and hence unacceptable to liberalism, truly popular government necessarily is. See *Liberalism against Populism: A Confrontation between the Theory of Democracy and the Theory of Social Choice* (Prospect Heights, IL: Waveland Press, 1988).

75. Samuel H. Beer, "The Idea of the Nation," in O'Toole, ed., *op. cit.*, p. 348. Conlon has examined Reagan's federalizing record, as opposed to rhetoric, and found that at the same time that he consolidated federal grants, allowing states and localities to determine their use, Reagan drastically cut the amount of money transferred from the federal government to state and local governments in block grants and general revenue sharing programs. At the same time, "Reagan's own policy goals frequently displaced his professed commitment to 'devolution'." Conlon's criticisms are to the point, at least within the limited context of debate over "fiscal federalism." See Timothy J. Conlon, "Federalism and Competing Values in the Reagan Administration," in O'Toole, ed., *op. cit.*, pp. 360-1.

76. *Ibid.*, p. 347.

77. According to Webster: "The Union is not a temporary partnership of states. It is an association of people, under a constitution of government, uniting their power, joining together their highest interests, cementing their present enjoyments, and blending into one indivisible mass all hopes for the future." *Ibid.*, pp. 352-53.

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John Kincaid, suggests that they can, and, indeed, more effectively than the national government — which is why the latter tends not to interfere in such technically unorthodox matters as cross-border regional agreements — which are a kind of "foreign affairs" practiced every day by American states, particularly, though not exclusively, on the Canadian and Mexican borders.[78] Of course, *inter-state* disputes within a federal system are to be arbitrated by a truly *federal*, as opposed to national, government. This, however, is not to be confused with unlimited central-state building.

At the same time, however, federalism is not equivalent to "states' rights." For one thing, it is not a question of rights but of jurisdictions. Specifically, each state has internal differences and lower jurisdictions which may be given free reign to the greatest possible extent in a federal system — the principle of subsidiarity. It is only *vis-à-vis* the federation as a whole that "states" are sovereign. Furthermore, today large states are subject to the same kinds of decentralizing tendencies as the nation-state. Thus internal differences break down their monolithic administration from within, while the same global economy and cross-state regionalism do so from without.

Although O'Toole introduces Beer's piece as journalistic, and "not scholarly," its subject matter and approach, refering to past theorists and leaders on the question at hand, is more theoretically advanced and politically savvy than the usual types of scholarship on federalism.[79] It is indeed a refreshing departure from the typically scholastic, vacuous and boring treatment of "intergovernmental relations" as a career-driven sub-field of political science, analogous in this and other ways to "international relations." In terms of its content, however, Beer's position is conformist and conservative. It also runs counter to current tendencies toward decentralization and the break-up of nation-states.

Beer glorifies Franklin Roosevelt's "consolidation of the union" by declaring a "national emergency." Indeed, the answer to every "crisis," be it civil war, industrialization or racism, is, for Beer, national unification.[80]

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78. See "Constituent Diplomacy: U. S. State Roles in Foreign Affairs," in Daniel J. Elazar, ed., *Constitutional Design and Power-Sharing in the Post-Modern Epoch*, *op. cit.* Kincaid, at least, seems to have a grasp of some current trends, though he remains well within the Elazar/intergovernmental relations worldview.

79. Beer's argument is expanded in his *To Make a Nation: The Rediscovery of American Federalism* (Cambridge, MA: Belknap, 1993) in which he reviews the political philosophical roots of "the idea of the nation" in order to make a case for an aggressive pursuit of national policy making with the assurance of the tradition of "American federalism" behind it — much like Elazar proposed in the mid sixties.

80. *Ibid.*, pp. 354-5.

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Thus his apology for the Great Society is even more craven than Elazar's. Every "crisis" justifies ever more extensive "statecraft." There has been much "progress" in this sense, Beer attests, but ". . . few will assert that our statecraft — from poverty programs to affirmative action to busing — has been adequate to the objective. This problem still awaits its Alexander Hamilton."[81] There is no whiff of a critique of the central state; all ills are attributed to insufficient statecraft. Today such bland apologies are increasingly antiquated. Fixated as the national media is on symbols and institutions of national "leadership," the catchword of today's politics is "change," not more of the same. Such calls for change are not without some definite content. Welfare reform is obligatory. The idea that throwing more money at problems *à la* Johnson is a solution has been vastly discredited, though it continues to be promoted. Affirmative action and busing are remarkable for their unpopularity, not their inadequacy. Beer's glorification of "these three great waves of centralization: the Lincolnian, the Rooseveltian, and the Johnsonian" — correct as he is empirically — is dated for its absence of any criticism of the trend. Deriding "compact theory rhetoric" (as "compact theory," the basis of liberalism, is routinely attributed to federalism) Beer fails to notice the vacuity of such rhetoric. According to Beer, Reagan's calls for decentralization were wrong and diversionary. Rather, the real "call" ought to be "for renewed effort to consolidate the union." The problems of unity, however, are not to be solved from above. Furthermore, the US is not the only "union" to experience such crises. The federalist content of Reagan's rhetoric was consonant with actual tendencies throughout Europe and North America and, indeed, won him genuine popularity. The real myth is, rather, Beer's "national theory, which envisions one people, at once sovereign and subject, source of authority and substance of history, asserting, through conflict and in diversity, our unity of origin and of destiny."[82] Beer does not even begin to consider what further centralization would mean in institutional terms. Such are technical issues: "a rule for allocating functions between levels of government," Beer proclaims, "is for practical men, assisted no doubt by the policy sciences." One can be sure, nonetheless, that such "practical men," i.e., public policy technocrats, and political theory ideologues go hand in hand. Unpopular though centralization is, Beer claims, it can be accomplished covertly: "A nationalist need not always be a centralizer.

81. *Ibid.*, p. 357.
82. *Ibid.*, p. 358.

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For philosophical and for pragmatic reasons he may prefer a less active federal government. The important thing is to keep alive in our speech and our intentions the move toward the consolidation of the union."[83]

Federalism and American Populism

Rather than the mythical "one people" conjured by Beer to provide democratic content to ongoing nationalist objectives, federalism has a far more concrete relation to democracy not only by virtue of its provision of maximum local self-determination on principle but also by virtue of its historic connection to populism. This historical connection begins early on with the Anti-Federalist critique of the nationalizing objectives of the Constitution. The Anti-Federalist tradition of criticism, however, was effectively buried for some time, given the propensity of subsequent thinkers to reconceptualize the whole founding experience in terms of the perspective of those who won the major battles — not only the *constitutional* battles but the *popular* ones such as Shays' and the Whiskey rebellions and the larger discontent with the post-revolutionary order which they reflected. It is truly remarkable that as late as 1981 Storing could comment that "[t]here has been no sustained, comprehensive attempt to examine the thought, the principles, the argument of the Anti-Federalists as they were understood by the Anti-Federalists themselves and by the other men of that time."[84] It is as though Storing had taken up Bernard Bailyn's highly influential admonition "to understand that world [Revolutionary America] not as it anticipated the future but as it was experienced by those who lived it." Bailyn's penchant for unearthing lines of continuity from the left-wing pamphleteers of the English Civil War of the 1640s to the resolutions forged in the American Constitutional debates of the 1780s, however, had led him to downplay the significance of the Anti-Federalists, who condemned the Constitution as a new version of what the American Revolution opposed, the error of which

83. *Ibid.*

84. Herbert J. Storing, *What the Anti-Federalists Were For: The Political Thought of the Opponents of the Constitution*, *op.cit.*, p. 4. Cf. Storing, ed., *The Complete Anti-Federalist*, 7 vols. (Chicago: University of Chicago Press, 1981); Murray Dry, ed., *The Anti-Federalist: An Abridgement of The Complete Anti-Federalist* (Chicago: University of Chicago Press, 1985); Ralph Ketcham, ed., *The Anti-Federalist Papers and the Constitutional Debates* (New York: Penguin Books, 1986); John P. Kaminski and Richard Leffler, eds., *Federalists and Antifederalists: The Debate Over the Ratification of the Constitution*, Constitutional Heritage Series (Madison: Madison House for the Center for the Study of the American Constitution, 1989); and Wilson Carey McWilliams and Michael T. Gibbon, ed., *The Federalists, the Antifederalists, and the American Political Tradition*, Contributions in Political Science, no. 287 (New York: Greenwood Press, 1992).

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which "almost all the antifederalists sooner or later realized, especially when the guarantees of the Bill of Rights were in place."[85] Storing nevertheless took the trouble to collect their major writings, an effort which seems to have irked Bailyn, who, in the latest edition of his classic, derides Storing's seven-volume anthology for being woefully incomplete after all before setting out to refute the enduring relevance of the subject altogether.[86] Instead of searching for their "ideological origins," Storing considered the Anti-Federalists' ideas as political thought, i.e., he examined them critically, not merely in order to identify "economic, sociological or psychological underpinnings," as historians were wont to do even before Bailyn, who, shunning the "economic" approach, asserted instead a continuity of ideology to counter the Progressive historians' contention of class struggle, betrayal of original revolutionary ideals and *counterrevolution*.[87]

The historiographic tradition targeted by Bailyn, however, has not been completely wiped out. Recently Jackson Turner Main has raised the issue of populism and the Anti-Federalists, i.e., the radical federalists. Unfortunately he does so only in a back-handed way, subordinating the theme and other political questions to one of contending socio-economic "blocs."[88] Even more problematic is how these issues of 18th century thought, not to mention their understanding of class struggle,

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85. Bernard Bailyn, *The Ideological Origins of the American Revolution* (Cambridge, Mass., 1967), p. viii. See also Bernard Bailyn, ed., *Pamphlets of the American Revolution, 1750-1776*, John Harvard Library Series (Cambridge, MA: Belknap Press, 1965-).

86. In the 1992 edition of *Ideological Origins*, Bailyn includes an additional essay dismissing the Anti-Federalists' "received wisdom" as out of step with "new needs."(pp. 324, ff.).

87. Storing's introduction includes an informative overview of the historiography of the Anti-Federalists, and of how it changed with Charles Beard's over-simplified "class analysis" — deficiencies overcorrected, it seems, by Gordon S. Wood's subsequent de-politicization of the issues when, following Bailyn's example, Wood reduced the question to one of the genesis of the "ideology." See Charles Austin Beard, *An Economic Interpretation of the Constitution of the United States* (New York: Macmillan, 1935); and Gordon S. Wood, *The Creation of the American Republic, 1776-1787* (Chapel Hill, NC, 1969). See also Wood's *The Radicalism of the American Revolution* (New York: Vintage Books, 1993).

88. John F. Manley and Kenneth M. Dolbeare, eds., *The Case Against the Constitution: From the Antifederalists to the Present* (Armonk, NY: M.E. Sharpe, inc., 1987), p. xff. The editors follow with a vulgar reductionist account and proposal for viewing constitutional questons as questions concerning "which interests are served" — citing the Declaration of Independence as the critical (though, hardly federalist) document. They praise the Progressive historians such as Beard for showing "that their own industrial-era challenge to the system was fully anticipated by the Antifederalists," which only further demonstrates that they have not an inkling of the contradiction between "the two principle issues . . . fundamental to the 18th century concept of democracy" — issues raised by the Anti-federalists: "(a) individual liberties and (b) control by local majorities."

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translate to current problems of government — from voter turnout, to accountability, to "gridlock." The critique of "neo-Hamiltonianism," for instance, completely overlooks the contemporary problem of governability. Populism, while not statism, is also not anarchism. Federalism, by the same token, is a question of sovereignty: who decides which questions, by what mechanisms and under what conditions.

Wood's historiographic account of the Articles of Confederation and the Constitution extends from pre-Beardian developments in the 19th century to post-WWII claims of "consensus and continuity" (i.e., the Cold War: enter Elazar). Such literature, Wood points out, stressed the "uniqueness of American culture in comparison with Europe."[89] Contrary to Wood, however, the question of the significance of the Anti-Federalists is not primarily one of "class analysis" but of political theory, especially constitutional theory, which is not reducible to economic, social or even ideological origins. The "Progressive historians" were partly right about the significance of an aristocracy versus a populace, but it was not old classes so much as the beginning of a New Class in formation, which marked, simultaneously, the beginning of populism in the US during the same period. Consequently, the lesson of the Anti-Federalists does not support the centralism of political Progressivism (nor even the Progressivism that developed in the Northern Mid-Western states). Rather, it suggests the principle of subsidiarity which is tantamount to popular self-determination.

The consonance of populism and federalism as subsidiarity comes through in Isaac Kramnick's treatment of the Anti-Federalists. At the time of the American founding, a radical federalism was demanded from popular quarters, which vocally advocated a much more direct, participatory democracy, instead of the far more restricted representative system being established by the nationalists. At Massachusetts' ratifying convention in 1788, for instance, "one of the delegates complained that the ratification process was too far removed from the people at large and he voiced the special cry of Western Massachusetts' commitment to truly radical home rule. The Constitution, he declared, 'ought to have been sent to the several towns to be considered by them. My town considered it several hours, and after this there was not one in favor of it'."[90]

Whereas the radical federalism of the Anti-Federalists was intended

89. Gordon Wood, ed., *The Confederation and the Constitution: The Critical Issues* (Washington, DC: University Press of America, 1979).

90. Cf. Isaac Kramnick's introduction to the Penguin edition of *The Federalist Papers* (1987), pp. 37-8.

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to enhance popular power, the "federalism" of the Federalists was designed to frustrate its expression and implementation at every turn. Thus, for Madison and his peers the separation of powers at the national level was the centerpiece of "federalism," even while the new central government was itself to draw considerable, in fact, decisive, power away from localities. Significantly, both sides saw the issue of local self-government versus government by central elites (Madison's "natural aristocracy") as a question of the size and composition of the governed unit. The Anti-Federalists disagreed with the Federalists' contention that one great "civil society" was the best kind of arrangement. They saw the viability of democracy to be dependent on that of small, relatively homogenous, self-governed communities, in which a large proportion, if not all, of the population would directly engage in a decidedly non-unitary policy making.

American Populism, of course, became closely allied with the welfare state during the Progressive Era as a growing New Class of technocrats co-opted, by incorporating some of its demands, the Populist Party.[91] Recently, however, a spontaneous joining of federalism and populism is taking place throughout the US, at least in connection with anti-tax protests. A union of populism and federalism in such activism, however, is not nearly as direct as in Italy, where grassroots efforts to combat centralization are linked explicitly to an alternative program calling for a re-regionalization of the country and subsequent federation of autonomous regions at the European level.[92]

In general, the kinds of issues raised by "American federalism" and its critics, especially early on, are becoming relevant once again in an international arena characterized by the disintegration of various hithero stable political units. Not surprisingly, discussions of American federalism — even if not always very sophisticated and embroiled in confused neo-Kantian, universalist ideologies — are beginning to appear in this larger context.[93] It is in part due to this resurgence of interest that American historians and political theorists may be encouraged to turn serious

91 Cf. Lawrence Goodwyn, *Democratic Province: The Populist Movement in America* (New York: Oxford University Press, 1976).

92. Cf. the "Special Section on the Leagues in Italy," in *Telos* 90, *op. cit.*

93. See Andrea Bosca, ed., *The Federal Ideal: The History of Federalism from Enlightenment to 1945* (New York: Lothian Foundation Press, 1991). Vincent Ostrom has begun to think about such questions of constitutional revision and the future of American federalism in this larger context in *The Meaning of American Federalism: Constituting a Self-Governing Society* (San Francisco, CA: Institute for Contemporary Studies Press, 1991). His approach, however, tends to be rather dreary and fatalistic.

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attention toward the subject.[94] Up until now, however, Europeans have been systematically misled by "American federalism" read as another version of the unitary state and pluralism. Hopefully the American corruption of federalism will eventually be corrected within a developing geopolitical context where traditional "sovereignty" does not seem to make much sense either within a "New World Order" or what Schmitt described half a century ago as continental *Grossräume*.[95] Such a conceptual clarification and restatement of genuine federalist ideas may eventually reverberate back to the US, providing a guiding principle for long-overdue fundamental constitutional reforms.

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94. Another live wire is the continued outpouring of "Southern" history, often (though not always) written from the standpoint of the losers of the Civil War, the war of unification. A critical analysis of the Confederate Constitution and a recent edition of John Calhoun's collected works are two examples likely to bear contemporary relevance. See Marshall L. DeRosa, *The Confederate Constitution of 1861: An Inquiry into American Constitutionalism* (Columbia: University of Missouri Press, 1991); Ross M. Lence ed., John C. Calhoun, *Union and Liberty: The Political Philsophy of John C. Calhoun* (Indianapolis: Liberty Fund, 1992). See also Clyde N. Wilson, ed., *The Essential Calhoun: Selections from Writings, Speeches, and Letters* (New Brunswick, NJ: Transaction Publishers, 1992). The question of the role of the federal courts in determining federal-state relations, for instance, was directly considered in the "nullification" debates of the 1830s of which Calhoun was a major contributor. See Richard E. Ellis, *The Union at Risk: Jacksonian Democracy, States' Rights, and the Nullification Crisis* (New York: Oxford University Press, 1987). The problem with this literature (or rather with its serious consideration by non-Southerners) is its facile identification with racism as though talk of local autonomy (or "states' rights") could only be a "code word" for racism. Obviously distinctions can be made — and will have to be, as the questions federalism poses become impossible to ignore.

95. See G. L. Ulmen, "The Concept of *Nomos*: Introduction to Schmitt's 'Appropriation/Distribution/Production'," in this issue of *Telos*.

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Liberalism vs. Nationalism: Hobsbawm's Dilemma

Elías José Palti

Since the early 1980s an "anti-genealogical" consensus has developed among historians of nationalism. According to the so-called "genealogical approach," which dominated European thought in the 19th century, nations were "objective," single entities (defined in terms of race, language, traditions, etc.), evolving through time. Those primary social groupings (such as tribes, city-states, empires, feudal fiefdoms, theocracies, and so on) under which most people have actually lived were regarded as merely preliminary forms of modern nation-states.

The anachronism of this "genealogical approach" has been systematically denounced during the past century. As Shafer has noted, an "often committed error of students of ideas is to tear generic words like nation and nationalism from their historical context, to read their contemporary substance in the past, and thus to see in the past the generalities and universals actually evident only in contemporary life."[1]

The "anti-genealogical" consensus, a trend dating back to the works of Charles Hayes and Hans Kohn (who, in the 1920's, reacted to emergence of the contemporary forms of nationalism by revising the organicist concept of the nation as a "natural form of community)[2] emphasizes instead the "modernity" and "constructed" nature of the concept of "nation." In other words, the "nation" is an invented entity, a product

1. Boyd Shafer, *Nationalism, Myth and Reality* (New York: Harcourt, Brace and Co., 1955), p. 5.

2. Kemiläinem called them the "twin fathers of academic scholarship on nationalism." See Aira Kemiläinem, *Nationalism: Problems Concerning the Word, the Concept and Classification* (Jyväskylä: Kustantajat, 1964).

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of quite modern processes like bureaucracy, secularization, revolution and capitalism. The past to which nationalists appeal is mythical, it exists only in their minds. In the last analysis, this historicization of the concept of nation seeks to undermine the basis of modern nationalism.[3] The revelation of its contingent foundations would deprive nationalism of a rationale or at least help prevent its development into radical jingoism.

Hobsbawm's work on nationalism is one of the most influential examples of this trend. His conclusion may be summed up as follows: there have been two stages in the development of the idea of the nation. Initially, nationalism served to affirm the state's bureaucracy as a means of administrative rationalization; it was both product and part of the process of nation-state consolidation.[4] Only later did the idea of "nationality" emerge as something different from the nation-state. Its definition in racial-linguistic terms threatened to break the existing territorial states, inevitably pluri-racial and pluri-linguistic. This last development, then, no longer had objective foundations but was merely an ideological construct.[5] Its effects have been "essentially negative and divisive."[6]

Nevertheless, even though this doctrine emerged on the peripheries of, or against, the existing national states, in all cases nationalism presupposed the state as a condition of existence and was, at the same time, its goal. Hobsbawm concluded that the ongoing decline in the functions of the nation-states, as a result of their progressive absorption into supra-national organisms and structures,[7] announced the gradual diminution of the influence of nationalist ideologies. His final words were: "The owl of Minerva which brings wisdom, said Hegel, flies out at dusk. It is a good sign that it is now circling round nations and nationalism."[8] As an example, Hobsbawm cites the case of Yugoslavia, where "by the end of 1988, national tension had not yet led to a single casualty" and, from then on, it has developed in a climate of "relative peacefulness . . . that is still worthy of note."[9]

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3. Smith sees "skepticism, and even hostility, to nationalism" as defining the present consensus. Anthony Smith, "Nationalism and the Historians," in *International Journal of Comparative Sociology*, Vol. XXXIII, Nos. 1-2 (1992), p. 72.
4. Eric Hobsbawm, *Nations and Nationalism Since 1780. Programme, Myths, Reality* (Cambridge: Cambridge University Press, 1991), p. 59.
5. "The type of nationalism that emerged towards the end of the nineteenth century had no fundamental similarity to state patriotism, even when it attached itself to it. Its basic loyalty was, paradoxically, not to 'the country,' but only to its particular version of that country: to an ideological construct." *Ibid.* p. 93.
6. *Ibid.*, p. 164.
7. *Ibid.*, pp. 173-4.
8. *Ibid.*, p. 183.
9. *Ibid.*, p. 173.

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In the following years, the increasing ferocity of the Bosnian War and the rebirth of nationalism in Europe proved Hobsbawm's prediction dead wrong, and this has led him to do a complete about-face. In his lecture to the American Anthropological Association in February, 1992, he stated that "xenophobia looks like it is becoming the ideology of the masses at the 20th century *fin de siècle*. What holds humanity together today is the denial of what the human race has in common."[10] Far from receding, the development of nationalism into jingoism has now become unstoppable. Is Hobsbawm's sad picture the most probable scenario for the coming years?

The Debate on National Self-Determination

By attacking nationalism, Hobsbawm follows a long English tradition. English scholars have been wont to subordinate the right to national self-determination to the liberal principle of territorial state integrity on the basis of national pluralism (Byron, Stuart Mill and Disraeli were among the few exceptions in 19th century England). In 1864 Lord Acton summarized this view: "The co-existence of several nations under the same state is a test, as well as the best security of its freedom. It is also one of the chief instruments of civilization; and, as such, it is in the natural and providential order, and indicates a state of greater advancement than the national unity which is the ideal of modern liberalism. The combination of different nations in one State is as necessary a condition of civilized life as the combination of men in society. Inferior races are raised by living in political union with races intellectually superior. Exhausted and decaying nations are revived by the contact of a younger vitality."[11]

This traditionally English love of "national pluralism" was nurtured by its own multi-national formation. Cultural autonomy and political unity might be the right formula for co-existence in the British Isles. However, it not only led to the disregarding, in a very illiberal fashion, of the opinion of populations involved, but also appeared less than feasible. The strict respect for national cultures would almost certainly have nourished, in the long run, separatist tendencies.[12] Any measure

10. Eric Hobsbawm, "Ethnicity and Nationalism in Europe Today," in *Anthropology Today*, Vol. 8, No. 1 (February 1992), p. 8.

11. Lord Acton, *Essays on Freedom and Power* (New York: Free Press, 1949), pp. 185-186.

12. In the case of Yugoslavia, Vujacic and Zaslavsky show how the politics of decentralization may lead to political dissolution. "The history of Yugoslav disintegration," they conclude, "indicates that the decentralization of political authority is not a way out of the ethnic crisis. On the contrary, in Yugoslavia the decentralization of power has exacerbated centrifugal tendencies." See Veljko Vujacic and Victor Zaslavsky, "The Causes of Disintegration in the USSR and Yugoslavia," in *Telos* 88 (Summer 1991), p. 137.

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aimed at "great-nation" unification, such as the anti-Welsh legislation, was not regarded as contradicting "national pluralism," but rather as its necessary complement.

The debate over national self-determination within the Left, the other tradition to which Hobsbawm adheres, was far more controversial. For Marx, the "national" and the "colonial" questions were two completely different things. The first was typically European (Polish, Irish, Italian, German), the second, non-European (Indian, Chinese, etc.). Whereas he supported the rights of European nations to self-determination, his attitude with respect to non-European ones was more ambiguous. His defense of the "civilizing" action of the West is well known.

The Second International adopted a similar position. The British Labour Party and the German Social-Democrats led by Karl Kautsky gave "progress" precedence over "nationality." The Austrian Social-Democrat leaders opened the internal debate when Karl Renner (*Staat und Nation*, 1899) and Otto Bauer (*Die Nationalitätenfrage und die Sozialdemokratie*, 1906) began to acknowledge national self-determination as a generally valid principle, although only on the basis of federalism. Italian and French Social-Democrats (particularly under Jean Jaurès and Charles Huysmans) were the most sympathetic to this principle during the last quarter of the 19th century.[13] Following them, the 1986 London Congress condemned "colonial expansion" as "only another name for the extension of the capitalist area of exploitation in the exclusive interest of the capitalist class." This last statement, however, was usually qualified. Thus the 1904 Amsterdam Congress supported colonial emancipation, but it was remarked that, for the moment, it was necessary "to claim for the natives that liberty and autonomy compatible with their state of development."[14]

Lenin articulated a similar position in *Iskra*. In 1903, regarding the Polish question, he wrote: "We subordinate to the interest of the proletarian struggle our support of the demand for national independence."[15] But he soon began to attack his Social-Democratic fellows' "nationalist deviations." However, his first anti-imperialist pamphlets, "The War in

13. See Benjamin Akzin, *State and Nation* (London: Hutchinson University Library, 1964), pp. 20-21.

14. F. B. Beleyubskym, "The International Working-Class Movement and the Struggle Against Colonialism Prior to the Formation of the Comintern," in R. A. Ulyanovsky, *The Comintern and the East* (Moscow: Progress, 1979), pp. 50-54.

15. V. I. Lenin, *Collected Works*, Vol. VI (Moscow: International Publishers, 1930), pp. 454-463; quoted by Horace B. Davis, *Nationalism and Socialism* (New York and London: Monthly Review Press, 1967), p. 190.

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China" (1900) and "The Fall of Port Arthur" (1905) were concerned mainly with the position of the Russian working class *vis à vis* tsarist policies. According to Lenin, the socialists' main task was preventing national chauvinism from infecting the Russian proletariat. In subsequent years, he developed a more comprehensive view on the national and colonial questions, which led to his theory of imperialism. The first exponent of this new view was Stalin, in his pamphlet "Marxism and the National Question" (1913). The world expansion of capitalism had changed the rules of international politics. It was no longer a struggle between progress and "backwardness," but one between oppressor and oppressed nations: "An abstract presentation of the question of nationalism in general is of no use at all. A distinction must necessarily be made between the nationalism of an oppressor nation and that of an oppressed nation, the nationalism of a big nation and that of a small nation."[16]

Lenin thus redefined the national and the colonial questions, promoting the rights of self-determination of oppressed nations both East and West.[17] Against chauvinism, he advocated solidarity within the international workers movement: "If the proletariat of any one nation gives the slightest support to the privileges of its 'own' national bourgeoisie, that inevitably arouses distrust among the proletariat of another nation; it will weaken the international class solidarity of the workers and divide them, to the delight of the bourgeoisie. Repudiation of the right of self-determination or to secession inevitably means, in practice, support for the privileges of the dominant nation."[18]

Lenin's defense of the principle of self-determination was grounded in "proletarian internationalism." He believed in the eventual coalescence of different nations into one single political and cultural (socialist) community. "National wars *against* imperialism" were "inevitable," and, in all cases, "*progressive and revolutionary*."[19] He never considered the possibility that the nationalism of an oppressed country could be "reactionary." This question was posed by Karl Radek at the Fourth Congress of the Comintern: "Now, we find at the head of the Oriental national movements neither Communists nor even bourgeois revolutionaries, but for the most part representatives of the decayed feudal cliques

16. V. I. Lenin, *Collected Works*, Vol. 36, p. 36; quoted by V. Zagladin, ed., *The Revolutionary Movement of Our Time and Nationalism* (Moscow: Progress, 1975), p. 11.

17. See Sanjay Seth, "Lenin's Reformulation of Marxism: The Colonial Question as a National Question," in *History of Political Thought*, Vol. XIII, No. 1 (Spring 1992), pp. 99-128.

18. V. I. Lenin, *The Rights of Nations to Self-Determination* (Moscow: International Publishers1976), pp. 17-18.

19. V. I. Lenin, "The Junius Pamphlet," quoted by Seth, *op. cit.* p. 112.

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belonging to the military and bureaucratic classes."[20]

With its "Theses on the Eastern Question," the Fourth Congress resolved this contradiction by supporting "every national revolutionary movement against imperialism."[21] The Third International held on to Lenin's position until 1935[22] when, in reaction to Hitler's rise to power, its VIIth Congress (under Stalin) took a nationalist turn. This brought about the politics of the "Popular Front" and coincided with Russia's revindication of its national heroes from Alexander Nevski to Peter the Great, while the Soviet Union was identified with the traditions of the Russian Empire. Similarly, the French Communist Party in 1935 proclaimed itself the guardian of the Republic and the heir of 1789. In October 1936 Maurice Thorez called upon Catholics — even the *Croix de feu* — to build a *Front français*. The editorialist Vaillant-Couturier could then write in *L'Humanité* that : "Our party did not fall from the sky. We have deep roots in the soil of France. The names of our leading militants have a strong, honest, native tang . . . . Our party is a moment in the history of eternal France.[23] In 1968, however, after Czechoslovakia's insurrection, the Soviet Union took a new twist and began to attack the latest nationalist orientation: nationalism was a pro-capitalist force the function of which was "to divide and fragment the international working class."[24]

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20. *Fourth Congress of the Communist International: Abridged Report*, quoted by Seth, "Lenin's Reformulation," *op. cit.* p. 123.

21. Jean Degras, ed., *The Communist International: 1919-1943. Documents* (London, Oxford University Press, 1956), Vol. I, p. 386.

22. "The bourgeois nationalism of *every oppressed* nation," said Lenin, "has a general democratic content which is directed against oppression, and it is this content that we *absolutely* support, strictly distinguishing it from the tendency toward one's own national exclusiveness, fighting against the tendency of the Polish bourgeois to oppress the Jews, etc." V. I. Lenin, "A Caricature of Marxism and 'Imperialist Economism'," in *Collected Works*, Vol. IX, p. 243; quoted by Davis, *Nationalism and Socialism*, *op. cit.* p. 193.

23. Quoted by Brian Jenkins, *Nationalism in France. Class and Nation since 1789* (Savage, Maryland: Barnes & Noble, 1990), p. 144. In a similar tone, in 1937 Henry Lefebvre discussed the "French national character," glorified Joan of Arc as "the founder of French nationality" and assured that "each nation has a destiny," all commonplaces in French nationalist historiography. See Henri Lefebvre, *Le Nationalisme contre les Nations* (Paris: Méridiens -Klincksieck, 1988), pp. 43, 70 and 115. This view was legitimated by citing Stalin's statement in his 1913 pamphlet which, although outside its original context, seemed to adopt a nationalist concept: "A nation," he said, "is a historically evolved, stable community of language, territory, economic life and psychological make-up manifested in a community of life." See Joseph Stalin, *Marxism and the National and Colonial Question* (London: Lawrence & Wishart, 1947), p. 81. This, according to Lefebvre, was the only "scientific" definition of nation.

24. Zagladin, *The Revolutionary Movement*, *op. cit.* p. 3. Vujacic and Zaslavsky (*op. cit.*, pp. 120-140) provide an interesting description of the collapse of those countries as a result of the failure to resolve the contradiction between democracy and self-determination.

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The debate regarding nations and their self-determination reached its peak in the League of Nations, immediately after WWI.[25] The principle of national self-determination was advocated by Woodrow Wilson. During the war he claimed that his nation was "fighting for the oppressed nationalities who submerged or standing alone could never have secured their freedom."[26] However, his support was conditional and qualified. He and his allies hesitated to break-up the Dual Monarchy (Austria-Hungary) and, except with regard to Poland and Rumania, merely promised "genuine self-government on true democratic principles."[27] World security was placed above the right of national self-determination: "No movement must be allowed to persist which, under cover of unexceptionable sentiments, would lead to unrest in the world or breed fresh insecurity. However worthy of respect certain doctrines and propaganda may be, one thing stands before them all — peace."[28]

In this sense, today's debates recall the earlier ones in the League of Nations, the outcome of both being similarly crucial to the future of international relations. The large amount of material recently published, including Hobsbawm's work, has been triggered by a similar panic over the probable consequences of a nationalist revival. It is assumed that this revival threatens the survival of almost every European nation. As Gellner has pointed out, there are about eight thousand spoken languages in the world, and more than two hundred claims of self-determination.[29] Carr remarks that twenty of them are located in Europe.[30] If these claims were redeemed, almost none of the present European nations would remain.

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25. On this debate, see C. A. Macartney, *National States and National Minorities* (London: Oxford University Press, 1934), chapters VI and VII.

26. Quoted by Shafer, *Nationalism*, *op. cit.* p. 165.

27. Quoted by Macartney, *National States*, *op. cit.* p. 191. The British representative Balfour asserted then that "the proposition that all men are created equal is an eighteenth-century proposition," which he did not believe was true. The American representative confessed, in his *Diary* (Vol. I, p. 267), that he was also convinced by his colleagues of the soundness of the demand of cultural autonomy. Quoted in Macartney, *National States*, *op. cit.*, pp. 220 and 224.

28. League of Nations: *Ninth Assembly. Records of Plenary Sessions*, p. 82; quoted by J. Hertz, *Nationality in History and Politics* (London: Routledge & Kegan, 1951), p. 278.

29. Ernest Gellner, *Nations and Nationalism* (Ithaca, N.Y.: Cornell University Press, 1983), p. 44.

30. According to Carr, "The bare fact that there are in Europe to-day more than twenty, and in the world more than sixty, political units claiming the status of independent sovereign states goes far by itself to explain the aggravation of the evils of nationalism in our third period." See Edward C. Carr, *Nationalism and After* (New York: MacMillan, 1945), p. 251.

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After WWII, due mainly to Third World anti-colonialist movements, the great powers have dealt with this question by introducing (or reintroducing) a distinction between the colonial and the central countries. This polarity has been articulated in various ways. Some saw it as an opposition between countries of lesser and higher culture (Plamenatz, Gellner, Murray).[31] Others (Ma, Snyder, Hobsbawm) distinguish between a "state-based" or "integrative" kind of nationalism (a stage nowadays only suitable to Third World nations), and a "mentally construed" and "disruptive" nationalism (applicable to Western powers).[32] In all cases, these distinctions sought to support independence movements in the Third World while preserving the integrity of the states in the central countries. Blanco Ande has made this point explicit: "Is it appropriate to set a limit to the people's right to self-determination? . . . This right is exhausted by the colonial people's desire for national independence."[33] This is a reversal of Marx's view. The "national" question was now an eminently non-European question, while in Europe, national claims had become subversive and irrational.

Hobsbawm's condemnation of national separatism continues a long tradition emphasizing the potentially disruptive effects on the European community (and, specifically, on the British community) of a blind reverence for self-determination. His writings on nationalism originated in 1977 as a response to Tom Nairm's *The Break-up of Britain*, when he began rejecting any objective grounds for nationalism. He then appealed to Lenin to qualify his support for national rights of self-determination. "The fundamental criterion of Marxist pragmatic judgement," he said, "has always been whether nationalism as such, or any specific case of it, advances the cause of socialism."[34] Accordingly, he justified his rejection of the break-up of Britain on the grounds that at the time

31. In Gellner (*Nations and Nationalism*, *op. cit.*), the dichotomy corresponds to two different, consecutive stages in the development of capitalism. Similarly, Gilbert Murray cited, in the Second Assembly of the League of Nations, the progress of democracy in Europe as an argument for disregarding the independentist claims there (see Macartney, *National States*, *op. cit.* pp. 293-4). See also John Plamenatz, "Two Types of Nationalism;" in Eugene Kamenka, ed., *Nationalism. The Nature and Evolution of an Idea* (Camberra: Australian University Press, 1973).

32. Shu-Yun Ma, "Nationalism: State Building or State-Destroying," in *The Social Science Journal*, Vol. 29, No. 3 (1992), pp. 293-306. See also Louis Snyder, *The Meaning of Nationalism* (New Brunswick: Rutgers University Press, 1954).

33. José Blanco Ande, *El Estado, la Nación, el Pueblo y la Patria* (Madrid: San Martín, 1985), p. 174.

34. Eric Hobsbawm, "Socialism and Nationalism: Some Reflections of 'The Break-up of Britain'," in *Politics for a Rational Left* (London: Verso, 1989), p. 126.

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the secession of Wales, Scotland and Ireland would hardly lead these countries to socialism and, more probably, would reinforce English nationalism. In short, to those people demanding self-determination a "rational Left" should answer that "if and only if you vote for my party, and if and only if the nation of which you reject to be a part accepts it, would we give you the right to self-determination."

Some years later, at the time of the Falkland-Malvinas War, Hobsbawm extended these conditions to those colonies outside the British Isles. In "Falklands Fallout" (1983) he warned that "it is dangerous to leave patriotism exclusively to the Right," and urged the Left to try to "recapture . . . the patriotic upsurge which initially was in no sense confined to political Conservatives."[35] Hobsbawm soon realized that his politics had little to do with Lenin's. While Lenin fought chauvinist tendencies within the working class by reinforcing "international solidarity," Hobsbawm called on the Left to compete with the Right in its chauvinist escalation. In *Nations and Nationalism* Hobsbawm finally began to denounce "Wilsonian-Leninist" nationalism and to explore the foundations of modern nationalism.

The Anti-Genealogical Approach

Hobsbawm's criticism of the idea of the nation as a natural entity seems indisputable.[36] This does not mean, however, that his "anti-genealogical approach" is unproblematical. In fact, if its aim is to denounce the most radical forms of nationalism in this century, it has missed its target. The denunciation of nationalism as a mere mental construct, a myth, is effective only against the 19th century genealogical concept of "nation." It does not provide an answer to the more radical kinds of nationalism, particularly those which emerged after WWI. Fascism has never claimed that its concept of the nation was anything more than an ideological construct. It emphasized not only the primacy of subjective considerations such as emotional affections and consciousness of belonging to a common tradition and a shared community, but also emphasized that such a belief does not need an objective (either material or ideal) foundation. Mussolini outlined this view in 1922: "We have created our

35. Eric Hobsbawm, "Falkland Fallout," in *Politics for a Rational Left*, *op. cit.*, p. 60.

36. Anthony Smith suggests the need for a compromise among the genealogical and anti-genealogical perspectives aimed at restoring the balance between continuity and discontinuity, which, for him, has been upset by modern historians. See Smith, "Nationalism and the Historian," *op. cit.* p. 74. Smith's eclecticism, however, seems unlikely to find much sympathy among intellectuals bitterly suspicious of the idea of continuities in history and of every kind of long-lasting genealogies.

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myth. The myth is faith, it is a passion. It is not necessary that it shall be a reality. It is a reality by the fact that it is a good, a hope, a faith; that it is courage. Our myth is the Nation, our myth is the greatness of the Nation! And to this myth, to this grandeur, that we wish to translate into a complete reality, we subordinate all the rest."[37]

What mattered was not history, but the *constructed* image of history. The "eternal German" Hitler glorified had little likeness to the historical German, "the miserable racial mixture" he wished to purify.[38] The folkish State, the Utopia promised by Nazism, was not the outcome of a linear development. Its accomplishment involved a genuine revolution: a "conservative revolution."[39]

Lefebvre called this the emergence of a "new conception of the world" along with a "new theory of truth," according to which "the false idea (the myth) does not contradict truth."[40] Actually, it does not represent the emergence of a new concept of truth but, more simply, a translation of the phenomena under consideration. For Mussolini myth did not need to become the truth because it already was true as myth, which is part of reality and constitutes an active historical force. The "ideological" components of a nation were thus radically detached from the "cognitive" ones. It was not the content of the myth of the nation that mattered but the myth itself; not what is said but the fact of saying it and its social effects. In any case, such a turn does represent a decisive shift regarding the regime of the social production of meanings. It was no longer the nation but the *myth* of the nation which had become the subject of analysis, a matter of discussion, and, eventually, the center

37. Benito Mussolini, "Speech delivered at Naples, October 24, 1922," in Le Van Baumer, *Main Currents of Western Thought* (New Haven and London: Yale University Press, 1978), p. 748.

38. Adolph Hitler, *Mein Kampf*; quoted by Hertz, *Nationalism*, *op. cit.* p. 65.

39. See Jeffrey Herf, *Reactionary Modernism. Technology, Culture, and Politics in Weimar and the Third Reich* (Cambridge: Cambridge University Press, 1990), chapter 2 "The Conservative Revolution in Weimar," and Harro Segeberg, "Revolutionary Nationalism: Ernst Jünger during the Weimar Republic," in *History of European Ideas*, Vol.16, Nos. 4-6, pp. 821-826. From this viewpoint, fascism cannot be reduced to a mere "exaggeration," as Hobsbawm claims, of the ethnic or linguistic components in the original Romantic definition of the nation (*Nations and Nationalism*, *op. cit.*, p. 102). In fact, fascism expressed the crisis of such a notion. Accordingly, nations are not built on the will of the leaders or of the aristocracy. The tension between the idea of the nation as an organic, logical development and as that of a "mystical synthesis," emanating from the leader's *élan* was elaborated by Alfred Rosenberg, the Nazi ideologist, in *The Myth of the Twentieth Century*. "The life of a race," he said, "a folk, is not a philosophy that develops logically nor a process unwinding according to natural law, but is the expression of a mystical synthesis," quoted in Le Van Baumer, *Main Currents*, *op. cit.* p. 751.

40. Lefevre, *Nationalism*, *op. cit.* pp. 191 and 151.

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of a laic cult. The point is that this shift places nationalism out of reach of the kind of traditional criticism of ideologies such as Hobsbawm's. As Adorno has noted, the revelation of the contingent foundations of the nation leaves untouched what he called the "cynical reason" of 20th century nationalism which no longer makes any claim to truth.[41] In short, Hobsbawm's tendency — that of most historians in the liberal tradition — to see the whole history of Western thought as an eternal struggle between liberal, rational believers in an atomistic view of society, and totalitarian, irrational believers in an organicist societal ideal, led him to miss the specific nature of the transformation that nationalism underwent early in the 20th century. Nonetheless, the present debate about "nation" and "nationalism" is more than merely a historical squabble; it involves concrete political issues. As such, it cannot be tackled independently of the problems it attempts to address.

The recent wave of writings on nation and nationalism was initially sparked by the integralist resurgence in the Third World following the Iranian Revolution. In the 1980's the world situation seemed to display two opposing tendencies. While the so-called First World marched toward economic and political globalization, Third World countries (especially, in the Middle East) witnessed a revival of religious and nationalist fundamentalism. But in the past few years the world situation has become more complex. The Bosnian War challenges previous dichotomies. Once again, the Balkans represent a bridge between East and West. The affirmation of the principle of self-determination in Eastern Europe now threatens the integrity of West European powers. More concretely, the Bosnian War jeopardizes Turkey's security. There, Islamic fundamentalism could combine with Kurdish claims (which could become irresistable should Saddam Hussein fall). For the first time, a nation which is member of NATO is in danger of becoming embroiled in a civil war.[42] This situation does not merely prove Hobsbawm's predictions wrong, but also reveals the bankruptcy of his whole approach.

Germany's recognition of Slovenia and Croatia, which precipitated a similar recognition by the entire European Community, redefined international relations in Europe. Behind Germany's decision to recognize Slovenia and Croatia, West European powers suspect the hidden

41. Theodor W. Adorno, "Society," in *Salmagundi*, Nos 10-11. See also Slavoj Zizek, *Sublime Object of Ideology* (London: Verso, 1989), p. 30.

42. See "Les risques d'extension du conflit en Bosnie," in *Le Monde Diplomatique* (February 4, 1993), pp. 8-9.

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resurgence of an official national proto-Nazism. On the ideological level, the issue has been posed in terms of a controversy between those who advocate the defense of the *droit du soil*, consecrated by Helsinki (which preserves the territorial integrity of existing states), and those who subscribe to the principle of *droit du sang* (allegedly, Germany and Eastern Europe).[43] The xenophobic sounds of the racial principle of *droit du sang* have naturally made the first line of thought more appealing to liberal thinkers. At first glance, it seems to parallel the debate between the genealogical view of nations (put forward by nationalists who embrace the *droit du sang*) and the anti-genealogical view (advocated by progressivist liberals who promote the sanctity of pluralist nation-states). But the application of the principle of *droit du soil* to Yugoslavia generates a series of aporias and makes explicit the real ideological foundations of the present "anti-genealogical" consensus.

First, this opens liberals to the charge of using a double standard; i.e., glorifying nationalist forces with which they sympathize (typically, those in the former Soviet Union and, in general, those far from their own countries, whose security they defend) and condemning as terrorists or xenophobes those whom they do not regard with favor or who threaten the Western *status quo*. The critical point, however, lies in the fact that the rejection of the principle of national self-determination for minorities means, in this case, the legitimation of Serbian atrocities. Actually, this was the hidden meaning of the failed Vance-Owen plan which the "French solution" or project of "safe havens" (in reality, a system of concentration camps for Muslims under UN control) has made apparent. The allegedly "progressive" anti-genealogical approach has turned out to be an endorsement of seemingly ultra-reactionary politics.

Grounded in a Left-liberal framework, Hobsbawm's position on national self-determination (beginning with his answer to Nairn) has always seemed suspiciously close to that of the Right (above all, Spanish Franquists and English Tories) which, in Western Europe, has persistently decried the "subversive" nature of separatist movements.[44] But only the Bosnian War makes that contradiction immediately obvious. Whereas he could still justify his support for the Falkland-Malvinas

43. See "Humanitarisme et empires," in *Le Monde Diplomatique* (Feb. 1993) pp. 6-7.

44. Ande expresses this view as follows: "Terrorism strikes from behind, treasonably, because it knows that it cannot fight state power face-to-face. The pro-independence terrorist needs the support of those minorities he pretends to defend so that his crimes do not come to be considered as such, but as victories in the battlefield. Indeed, this moral support has to turn vulgar bandits into heroes." See Blanco Ande, *El Estado*, *op. cit.*, p. 173.

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War as a defense of democracy and a struggle against the authoritarian action of the Argentinian Junta, Hobsbawm's defense of existing plurinational states, applied to the Bosnian War, leads him to align himself clearly with the "wrong" side. However, he has no alternative. If the right of self-determination in Bosnia were to be recognized, there would be no way to deny a similar right to Welsh, Irish, etc. (i.e., to prevent the "break-up of Britain"). Hobsbawm's fury in his lecture to the American Anthropological Association betrays his awareness of the uncomfortable position in which he finds himself.

But Hobsbawm's uneasiness also reveals conceptual problems to which his anti-genealogical approach cannot provide solutions. His denunciation of the genealogical view did not necessarily entail the rejection of the people's right to self-determination. His anti-genealogical approach does not provide any objective grounds for legitimating the rights of "great-nations" to their integrity at the expense of "little-nation's" claims to self-determination. Both appear to be historical constructions with similarly "mythical" foundations. Hobsbawm's condemnation of the latter as "xenophobic" and defense of the former followed a rather elliptical path. Although their foundations are no less mythical than those of "little-nations," pluri-national states allegedly represent a higher stage in the progression to a universal community. Underlying his view is the Enlightenment assumption of the unity of the human species. Habermas has elaborated this concept more explicitly. In a recent article he departed from the Rousseauean concept of individual self-determination to distinguish between citizenship and nationality. According to Habermas, "the national state has been founded only transitorily on the close connection between 'ethnos' and 'demos' . . . ; between republicanism and nationalism there is merely a contingent, not a conceptual nexus."[45] Furthermore, "in a pluralist society constitutions express a purely formal consensus . . . . The democratic citizenship has no need to be rooted in the people's national identity. It leaves out the multiplicity of diverse cultural forms of life and it requires the socialization of every citizen within the common political culture."[46] In fact, in the long run republicanism (the individual's self-determination) and nationalism contradict each other; "citizenship (*Staatsbürger*) and cosmopolitanism (*Weltbürgerschaft*) form a *continuum* which is nowdays becoming broadly outlined."[47]

45. Jürgen Habermas, "Cittadinanza e Indentità Nazionale," in *Micromega*, No. 5 (1991), p. 127.
46. *Ibid.*, pp. 127 and 132.
47. *Ibid.*, p. 146.

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Similarly, in Hobsbawm's original concept (in *Nations and Nationalism*), the era of "nations and nationalism" was an ephemeral stage in human history.[48] The weakening of these artificial forms of collective identity would then allow for the spontaneous emergence of a new consciousness of the unity of mankind.[49] When he wrote *Nations and Nationalism* Hobsbawm still trusted in the existence of a kind of pre-established harmony between the people's will and what he regarded as the rational historical progress towards a true human community. His sense of the "modernity" and "artificial" (and, therefore, ephemeral) nature of nations fueled his enthusiasm for the prospect of peaceful transformation of the present system of nation-states into a new world-order.

As soon as events challenged this belief underlying his writings on the subject, Hobsbawm was forced to revise his whole program. Yet his recent about-face follows the same impressionistic method which had led him to announce the end of nationalism. While diametrically opposed in content (the first, unqualifiedly optimistic; the second, crudely pessimistic), both predictions are based on the same procedure of linearly projecting upon the future some current tendencies (in the first, those leading to world economic globalization; in the second, the jingoist features of some of the European nationalist movements). Yet he has been unable to develop a stronger program for the rejection of the right to self-determination by following his Enlightenment assumptions to their logical consequences. It would have involved asserting the existence of a plain contradiction between self-determination and democracy.

From Hobsbawm's as well as from Habermas' Enlightenment perspective cosmopolitanism can be advocated as an ultimate goal; but in the meantime it cannot be used as a rebuttal to claims to self-determination by particular national minorities, provided that their individual members desire it. David George accepts Habermas' premises, but has elaborated them in a different direction in order to explicitly distinguish between the rights of "great nations" and those of "little nations." Accordingly, the demonstration of the "modernity" and "constructed" nature of the idea of nation shows that this right cannot be considered a "human right" and, therefore, that it is subject to social regulations and limitations: "A human right, then, is a universal and morally justifiable

48. See Smith, "Nationalism and the Historians," *op. cit.* p. 73.

49. "Since the eighteenth century," complained Shafer, one of Hobsbawm's favorite authors, "few intellectuals have been able to see men as man. Even the apostles of Marxian internationalism have succumbed to nationalism." Shafer, *Nationalism*, *op. cit.* p. 217.

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claim to special benefits — a claim which may be made legitimately by anyone anywhere. It follows that if a putative human right of self-determination lacks this universality, and/or if it does not lead to relevant benefits, it cannot be a non-legal (or moral) human right."[50] Since it is a "legal" right, the right to national self-determination presupposes the state as the sovereign entity which can confer it. Therefore, it cannot be directed against that state. The self-determination of a minority would be a contradiction in terms: detached from the state, any group of people is a "mere formless mass," lacking any rights other than "natural ones" (which, for George, do not include that of national self-determination). The mere desire of a group to be an independent nation is not enough to confer upon it any special right above those of the entire community to which they presently belong: "holding a referendum or a plebiscite . . . will n[ot] unite individuals into a nation."[51] George thus concludes that there is a contradiction between democracy and the claim for national self-determination by a minority. "Commitment to democracy as a legitimate form of government therefore entails no commitment to the nationalist claim to self-determination. Whatever the merits of national self-determination may be, there are no good reasons for supposing it as the unqualified non-legal right of every nation."[52]

Thus, according to George's concept of democracy the population of the already constituted nation-state becomes the only legitimate subject of will since it is the existence of a legal order which confers such a right upon its members. Carl Schmitt has indicated the inversion of the logical order of the constitution of a political order by the positivist-legalist perspective George follows, "giving the impression that the Constituton founded the state."[53] As Schmitt showed, all constitutions actually presuppose a constituent people. More important and consequential is the fact that, in his attempt to distinguish between republicanism and nationalism, George ends up revising the Rousseauian-Habermasian notion of the self-determining individual. George's concept, however, has the merit of making explicit what in Hobsbawm remained implicit and confused. Both George and Hobsbawm hold an

50. David George, "The Right of Self-Determination," in *History of European Ideas*, Vol. 16, Nos. 4-6 (1993), p. 507.
51. *Ibid.*, p. 510.
52. *Ibid.*, p. 512.
53. Carl Schmitt, "The Constitutional Theory of Federation (1928)," in *Telos* 91 (Spring 1992), p. 46.

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Enlightenment notion of "democracy," according to which the term loses its proper etymological meaning. Hobsbawm openly contraposes his own notion of "democracy" to the one contained in what he calls the Wilsonian-Leninist doctrine of the nation. According to Hobsbawm, by identifying democracy and national-self-determination, the latter became responsible for the present tragedy in the Balkans: "The specific reason for the wave of nationalist separatism in Europe today is historical. The chickens of WWI are coming home to roost. The explosive issues of 1989-1991 are those created in Europe and, I am tempted to add, in the Middle East, by the collapse of the multi-ethnic Habsburg, Ottoman and Russian Empires in 1917-1918, and the nature of the postwar settlements in respect to their successor states. The essence of these, you may recall, was the Wilsonian plan to divide Europe into ethnic-linguistic territorial states . . . The Leninist theory of nations on which the USSR was subsequently constructed (and Yugoslavia) was essentially the same, though in practice — at least in the USSR — supplemented by *the Austro-Marxist system of nationality as an individual choice, which every citizen has the right to make at the age of 16 wherever he or she comes from.*"[54]

Hobsbawm, however, finds himself in trouble when trying to argue the concept of a "democratic," pluralistic nation as opposed to any right of national minorities to self-determination. The idea of a willingly assumed union logically presupposes that its members have the right to become independent. In Lenin's words, the union of states must take place voluntarily, "on a truly democratic, truly internationalist basis, which is *unthinkable* without the freedom of separation."[55] "A socialist of a great nation or a nation possessing colonies," Lenin added, "who does not defend this right is a chauvinist."[56] To defend a "democratic" pluralist nation by rejecting the right of national minorities to self-determination seems contradictory. The only way of resolving this contradiction was by opposing to the so-called mythical, "objectivist" concept of the nation as a "natural" entity, the idea, allegedly counter-mythical, of the existence of another authentically "natural" kind of community ("humanity") to which corresponds a specific kind of "objective" rights (so-called "human rights"). This opposition, however, hides the common

54. Hobsbawm, "Ethnicity and Nationalism," *op. cit.* p. 5 (emphasis added).

55. V. I . Lenin, "The Revolutionary Proletariat and the Right of Nations to Self-Determination" (1915), in *Collected Works*, Vol. XVIII, p. 373; quoted in Davis, *Socialism and Nationalism*, *op. cit.* p. 195.

56. V. I. Lenin, "Socialism and War" (1915), in *Collected Works*, Vol. XVIII, p. 235; quoted by Davis, *Socialism and Nationalism*, *op. cit.* p. 195.

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features of both views — as nations for nationalists, human rights are not for liberals a matter of debate: they are "above" the whims of any given people. In this case, enlightened Western elites would be in charge of defining and preserving them. No matter how appealing it may be, the defense of "human rights" can thus easily be turned into a "progressivist" façade for an authoritarian concept, as it is often used to legitimate imperialist policies.[57] George not only assumes as valid the controversial distinction between "human, non-legal rights" and "legal rights" but also claims to possess an "objective" means (or "Archimedean point")[58] to distinguish between them. Following George's method, others may easily prove that free speech is a "legal right" and, therefore, subject to regulations and limitations.[59]

If the kind of distinctions George proposes are implicit in Hobsbawm's anti-genealogical approach, the latter does not provide any argument to substantiate them. As late as 1990, when he published *Nations and Nationalism*, Hobsbawm did not see a real opposition between "human rights" and "popular will." His major works on the subject were still written under the assumption that "little-nation" nationalism tended historically to recede and that a "reasonable" compromise (autonomy for minorities with no secession) could be worked out.[60] His was

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57 In a cover article, *The Economist* has discussed the new interventionist wave (January 30, 1993), p. 15. Reviewing what it called the ongoing "scale of disorder," *The Economist* said that "of this catalogue of calamities, some can be managed — perhaps even prevented — by diplomacy. Of those that cannot, by no means all could or should be sorted out by military intervention, whether under the United Nations flag or anyone else's." Boutros Ghali revealed to *France Presse* (December 11, 1992) the "antigenealogical" concept of the nation underlying this policy. "The notion of sovereignty is a flexible concept," he said. "International right establishes that a state is formed by a territory, a population, and a government. But if one of these elements is absent, there is no longer sovereignty, as it is the case in Somalia. Civil wars are no longer civil ones." Quoted in *Correo Internacional*, No. 61 (January-February 1993), p. 6.

58. See Frederick Johnstone, "Quebeckers, Mohawks and Zulus Liberal Federalism and Fair Trade," in *Telos* 93 (Fall 1992), p. 10. According to Johnstone, "for liberal federalism, respect for local culture is not a blank check for cultural relativism. Universal human rights are inherently incompatible with clitoris cutting."

59. Similarly, following Johnstone's logic, others may argue that the defense of human rights of African women not to have their clitoreses cut off legitimates a UN military intervention in Africa. The question, again, is not whether inherent human rights exist, but who can pretend to be their bearer and custodian.

60. In his criticism to *The Break-up of Britain*, Hobsbawm questioned Nairm's idea that secessionism is *inevitable*, and asked is "it enough to state the obvious, namely that the strong pro-Catalan and pro-Basque votes in those parts of Spain are evidence of nationalist predominance, without investigating how far they are votes for secession, for some other form of autonomous association, and if so which?" See Hobsbawm, *Politics*, *op. cit.* p. 137. Actually, these policies seemed to have worked in Spain. Recent events, however, raise questions concerning the viability of this solution.

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not really a combative anti-nationalist counter-ideology. Even though he did not explicitly accept it, the idea of a "compromise" presupposed that the contracting parts possessed a legitimate will and they, therefore, could agree or reject his proposal. In short, this presupposed an implicit acknowledgement of the people's right to self-determination. Precisely because his was not a really combative anti-nationalist counter-ideology, as soon as events displayed a trend different than he had expected, his only remaining alternative was to fall into a crude pessimism. Nonetheless, what he had previously tried to pass-off as an "objective" and "impartial" analysis revealed its real ideological foundations. The Bosnian War has unmasked his "progressivist" façade and revealed what was really at stake under his indictment of the genealogical view of the nation — the wish to preserve the *status quo* and security of the Western powers, even where it contradicted the wish of the populations involved.

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Federalism, Democracy and the People

Chris Woltermann

Federalism makes good sense as an institution for conferring limited unity among previously autonomous political entities. When, however, reformers seek to diminish the degree of unity in an existing nonfederal state, attempts at *federalization*, i.e., modifying a state by giving it a federal structure, are problematic. This does not mean that some unitary states would not be "improved" if they were to be reconstituted as federal unions. The problem lies in getting from a unitary present to a federal future. Such a transition is attainable, claim nearly all would-be federalizers, through democratic means. Yet, democratic majorities usually view federalization as an attempt by particularistic interests to escape democratic governance. That is the perspective of majorities in both Italy and South Africa, where the Northern League and the National Party, respectively, advocate democratically sanctioned federalization. In South Africa, members of the largely white National Party cannot convince even themselves that a federal constitution, once approved, would be workable. (How else is one to interpret the extravagance of nervous energy with which Nationalists propose "constitutional guarantees" to protect South Africa's minorities?) Unlike federalization, the democratically engineered radical dissolution of a unitary state, as occurred recently in Czechoslovakia, appears relatively simple.

A peculiarly modern faith in the plasticity of constitutional arrangements enables would-be federalizers to minimize the difficulties inherent in achieving their objective. In a democracy, they argue, the sovereign people, who can elect to separate into two or more sovereign peoples, can surely take the moderate step of instituting limited disunity —

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analogous to the limited unity of historical federalism — by converting a unitary state into a federal union. This argument calls for careful scrutiny. Two questions seem especially relevant: Are democratic politics able to generate an unprecedented devolutionary federalism, a federalism "from the top down," or is the only practical federalism the well known constructive federalism that grows "from the bottom up"? More generally, are democracy and federalism compatible?

The US Constitution, which became operational on March 4, 1789,[1] established a federal union between eleven theretofore sovereign states. Pursuant to favorable action by North Carolina (November 21, 1789) and Rhode Island (May 29, 1790), this federation grew to include all thirteen of the former colonies that had earlier won their independence from Britain. Their new unity was overtly federal. The Constitution's taxonomy of governmental powers, i.e., all powers exclusive of those reserved to the undefined "people," distinguished between the powers "reserved" by the states to themselves and those "delegated," again by the states, to the new US government. Absent from the original Constitution, the words "reserved" and "delegated" appeared when the states adopted the Constitution's Tenth Amendment[2] (December 15, 1791) and were implicit before then. They made clear that the states were the source of the central (federal) government's authority. The states reserved and delegated: the federal government, as Americans learned to call it, merely received delegated powers.

Democracy was not a political value that the Constitution either reflected or aimed to foster. According to the Constitution's Article VII, ratification of the proposed federal union was to be a matter for state ratifying conventions, not the people of the US nor even the peoples of the several states. The Constitution, although it guaranteed to every state accepting it "a republican form of government," said nothing about how or when or where the states should constitute their ratifying conventions. As a practical matter, this silence meant that existing state franchise and officeholding qualifications — none of which were fully

1. This was the date the First Congress under the Constitution first met, albeit without a quorum. For this and subsequent references to US history, see Richard B. Morris, ed., *Encyclopedia of American History* (New York: Harper & Brothers, 1953).

2. The Tenth Amendment reads: "The Powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States, respectively, or to the people." In context, the preposition "by" means "according to" or "in the words of." The Constitution "itself" did not delegate, prohibit or reserve anything; the *acts* of delegation, prohibition, and reservation were *by* the states and, as regards some reserved powers, the people.

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democratic, and some of which were quite undemocratic, even by 18th century standards — would remain in force for purposes of electing delegates to the various conventions. Moreover, the Constitution's prospective guarantee of "a republican form of government" to every state touched in no way upon future state restrictions on voting except for the Constitution's mandate that the election of members to the US House of Representatives should be by "the Electors in each State . . . hav[ing] the qualifications requisite for Electors of the most numerous Branch of the State Legislature." One further bit of evidence for the Constitution's lack of concern for democracy is the proposed composition of the federal government itself.

Article VII of the Constitution allowed no means of ratification other than through special state conventions. This meant that Rhode Islanders, who had initially rejected the Constitution through the more democratic technique of a referendum, would have failed to satisfy the Constitution's ratification procedure even if their vote had been affirmative. Like the people in every other state, Rhode Islanders eventually elected a convention to decide on the Constitution. Nowhere and never, however, were "the people" simply the people. All states excluded women (and, of course, children) from the franchise. Nearly as strict was the *de jure* or *de facto* denial of the vote to nonwhites. In practice, then, the pool of potentially qualified voters comprised adult white males. But only a minority of them did in fact qualify for the franchise. True, New Hampshire's and Pennsylvania's relatively democratic policies permitted voting upon payment of a low poll tax. More typical, though, were states such as Connecticut, Massachusetts, Rhode Island, New York and Virginia where state laws restricted the franchise to fairly well-to-do property owners. Some states, e.g., Virginia, required the ownership of considerable real estate. Rhode Island's ostensibly liberal property standard, which afforded the franchise to male freeholders and their eldest sons, nevertheless denied voting rights to the majority of men. Some states. e.g., Maryland, had a religious qualification for voting. (Incidentally, the US Bill of Rights had no effect on Maryland's religious qualifications law which survived in the Maryland state constitution until 1826).

State restrictions on the franchise accorded well with equally or still more stringent state laws on officeholding. South Carolina's constitution required its governor to possess property valued at no less than £10,000, an immense sum at the time. In the same vein, but with lower property thresholds, states such as South Carolina, Maryland and New Jersey allowed only wealthy men to sit in their legislatures. Maryland also maintained religious qualifications for officeholding.

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A dearth of strong democratic practices and sentiments in at least most states predisposed the small, elite groups of men who effectively were the states to establish a federal government largely devoid of democratic elements. As a weak exception to this rule, the US House of Representatives, elected in compliance with differing state franchise laws, was only quasi-democratically constituted. The more powerful Senate, by contrast, was clearly the creature of the states. According to the Constitution, each state's legislature was to choose that state's two senators. (Although most states gradually democratized the selection of senators, not until the states adopted the Constitution's Seventeenth Amendment on May 31, 1913, did senatorial elections become *de jure* a matter for each state's "people," in the sense of that term in 1913). Similar to senatorial appointments, presidential elections originally involved nothing like a democratic choice. The Constitution specified only that the president was to be chosen by designated numbers of electors appointed at the direction of the state legislatures. In practice, state legislatures directly chose the presidential electors, but by 1828 all states except South Carolina and Delaware had transferred this responsibility to "the people." Comparable to the Constitution's undemocratic presidential election procedure, the Constitution established the federal judiciary so as to make it free of any democratic pressures. Appointments to the Supreme Court were to be by the president with the Senate's advice and consent. This practice remains formally unchanged to the present day, although the Presidency and the Senate are no longer creatures of the states.

Every undemocratic feature of the state constitutions and of the US Constitution reinforced the specifically federal nature of the union that the eleven states had established in 1789. Moreover, American constitutional federalism reflected political realities as well as high-minded juridical principles. Both the states' reserved powers and the states' delimitations on delegated powers were secure because the men who staffed the federal governing apparatus derived their authority directly or indirectly from the states. In antipodal contrast to the situation in modern America, no federal politician in the late 18th century found it convenient to "go over the heads" of either the states or other federal politicians by appealing to "the people." The states had real existence: modern democracy's cherished "people" was yet to emerge.

Classifying particular 18th century governmental powers under the US Constitution as either state reserved or delegated is beyond this paper's scope. Suffice it to say that the trend of US history from 1789 to

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the present has been to blur the reserved/delegated powers distinction and to expand federal at the expense of state powers. With few and decreasingly significant exceptions, the US is today a unitary state. Writing in the 1920s, Carl Schmitt perceived that American federalism might have ended already by then when he speculated on the possibilities that (1) "only the remnants of an earlier federation have been deployed organizationally in the construction of a unitary state" or (2) "true federal elements have been transformed gradually into the organizational elements of a unitary state."[3]

Theoretical subtleties aside, the US has become such a unitary state that the "federal" government intrudes far into the minutiae of everyday life. Long gone are the days when the states pre-empted the US government in regulating such concerns as the legal age for the consumption of alcohol, where children must attend school, how local governments can celebrate public holidays, whether a farmer can abate periodic flooding in his fields and myriads of other matters. Of course, the states have lost all but a vestige of discretion to set their own voting qualifications. There seem to be fewer and fewer limits either on what constitutes the (alleged) "public interest" or on the central government's role in "serving" that interest. As with the Medicaid program, the states are mere administrative units.

The demise of the US as a federal union has a counterpart in the poor education about historical federalism that most American school children nowadays receive. For example, teachers routinely indoctrinate their students with the falsehood that the drafters of the Constitution divided governmental powers between the states and the federal center. But there was no "mass" of powers to be divided. Loose talk about "divided" powers obscures what really happened, i.e., the states' delegation of some powers against the backdrop of the states' retention of other powers. Bad history, the dominant pedagogic version of the US federal past, nonetheless makes for "good citizens" who believe that the "federal" government's continuing aggrandizement is a mere "adjustment" of the original constitutional order rather than its destruction.

American federalism waned as democracy in America waxed powerful. How were these changes related? Robert D'Amico and Paul Piccone, arguing for a causal nexus, contend that democratization ended federalism. "A contradiction between centralism and particularism," they

3. Carl Schmitt, "The Constitutional Theory of Federalism (1928)," in *Telos* 91 (Spring 1992), p. 36. This article is part of Schmitt's *Verfassungslehre*.

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write, "was reluctantly embedded in the US Constitution when . . . this *federal* document had to be based *democratically* on 'the people' rather than the federating units, as is normally the case in federations. This contradiction was finally resolved on the statist side . . . "[4] Although the overall thrust of D' Amico's and Piccone's argument rings true, there are some problems. If only "normally" do federating units create federalism, and if, by both implication and historical precedent, democratic choice can sometimes achieve the same end, then the present paper — whose purpose remains to investigate whether democracy can establish federalism — addresses an already settled question. But, contrary to D'Amico and Piccone, American federalism arose from the federating units and not "the people." D'Amico's and Piccone's mistake is to misunderstand the US Constitution's preamble, especially its first seven words: "we the People of the United States . . . ." This phrase appears only once in the preamble and nowhere else in the Constitution. Despite the *prima facie* etymological evidence, in no way does the phrase betoken a democratic origin for the Constitution.

The key to understanding "the people" in the Constitution's preamble is to recognize the profound conservatism of the men who drafted the Constitution. In this connection, it is noteworthy that Thomas Jefferson, the pro-democratic author of the Declaration of Independence, had little influence on either the Constitution's substance or its style. Jefferson, who served under the Articles of Confederation as US Minister to France (1785-1789), was overseas when the Constitutional Convention did its work from May 25 to September 17, 1787. In Jefferson's absence, the Convention nevertheless had the intellectual resources — over half of its delegates were lawyers and many delegates, lawyers and non-lawyers alike, were well versed in social contract theory — requisite for giving "the people" an explicitly comprehensive meaning. But the Constitution's framers did nothing of the sort. Instead, leaving "the people" undefined, they preserved the usage of this term that was conventional in 18th century English constitutional jurisprudence.

A fine example of such usage appears in Jean Louis de Lolme's *Constitution de l'Angleterre* (1771): "The right which the English possess of measuring out the subsidies to the crown is in fact the safeguard of all their liberties, civil and religious. It is an infallible method of securing that they retain the right *of passing judgment on the conduct of the executive*; it

4. Robert D' Amico and Paul Piccone, "Introduction," *Telos* 91 (Spring 1992): p. 4. Italics in original.

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is the rein by which the executive is held in check. The sovereign can, no doubt, dismiss at pleasure the representatives of the people but he cannot govern without them."[5] After quoting this statement, Bertrand de Jouvenel commented that "[t]he word 'people' is here used in the meaning which the Romans gave to the word *populus*, that is to say, the aristocracy. At that time [1771, in England] the aristocracy had a monopoly, which they were to retain until 1832, of seats in Parliament."[6] An aristocratic or, at any rate, an elitist concept of "the people" had been a staple in Western constitutional jurisprudence for over two millennia.

The framers of the US Constitution were not trying to initiate an epochal change. Indeed, the Constitution's strongly federal character, especially its total acquiescence to state franchise and officeholding requirements, proves conclusively that there was not a democratically inclusive people of the US but rather only more or less elitist peoples of the several *federated* and, in that sense, *United* States. Ascribing such an elitist orientation to the Constitution's framers contravenes modern Americans' most tenaciously held myths about US history. But, irrespective of the fact that these myths were developing already in the 18th century, the Constitution's framers took their juristic bearings directly from history rather than from myth (or social contract theory). Even the most casual reader of *The Federalist* can attest that the "Founding Fathers" knew a great deal about ancient history. They knew, for example, that the ancient Greek democracies were egregiously "undemocratic." A Greek *demos* or people (the "demo-" of democracy) was always only a small portion, never more than a few percentage points, of an ancient city's total population, which also consisted of slaves (the overwhelming majority) and various categories of free and partially free non-citizens. For the Greeks, only free citizens who comprised the *demos* were fit for self-rule; all others were to *be ruled*. Conditions were similar in early republican Rome, when the *populus* consisted only of men in the noble clans, the *curiae*. Likewise in medieval Italy, but probably unknown to the Constitution's framers, a partially self-governing town had a charter specifying that townsmen need answer a papal call to arms only pursuant to the advice of the town's *sanior pars*, its "better."[7] Perhaps the best examples of an elite *populus* providing a consensual

5. Quoted by Bertrand de Jouvenel, *On Power: Its Nature and the History of Its Growth*, trans. by J. F. Huntington (New York: The Viking Press, 1949), p.190. Italics in original.

6. *Ibid.* Italics in original.

7. Donald Matthew, *The Norman Kingdom of Sicily* (Cambridge: Cambridge University Press, 1992), pp. 133-34.

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base for government occurred in the feudal regimes of the 11th and 12th centuries when royal ordinances routinely began by announcing the concurrence of a king and various individually named barons.

So-called "national" monarchies gradually replaced the feudal monarchies. At the same time, and most thoroughly in England, the feudal aristocracy assimilated with a new bourgeois class. England's resulting post-feudal aristocracy, which was a close counterpart to the American ruling class, remained a caste, albeit a relatively "open" one. The only American constitutional innovation in this respect was to accentuate the still more "opened" condition of the American elite. That was the practical meaning of the Constitution's prohibition against American titles of nobility. Yet an elitist conception of "the people" remained the unstated cornerstone of early American constitutional jurisprudence.

Characteristic of 18th century America no less than of ancient Greece was the fact that "the people" was a *small* group of men who were, in de Jouvenel's words about ancient aristocrats, "capable both of ruling others and of agreeing among themselves."[8] Their small numbers were an absolutely crucial attribute, not an incidental one. Small-group dynamics prevailed; men knew one another's characters, their ways of thinking and acting. Within their circle, an "organic" harmony of manners and customs engendered and graced their unity. As "the people," they fully fitted George Washington's description of Americans as having "with slight shades of differences . . . the same religion, manners, habits, and political principles"[9] — and they validated ancient principles about the importance of customs for maintaining the ruling class's cohesion and political dominance.

The elitist character of 18th century America's "people" notwithstanding, American history is the story of the gradual, fitful extension of rights of democratic participation to nearly all adult US citizens. This was the promise of Lincoln's vision, although it did not originate with Lincoln, of government of, by and for "the people." For better or worse, however, the realization of the vision forced Americans to discover, very reluctantly and usually with extraordinarily convoluted denials, that the transition from their original elitist institutions to mass democracy spelled the end of meaningful self-governance.

Aristotle had broached the theoretical problem long ago when he recognized that the magnitude of a population was the chief basis for

8. De Jouvenel, *On Power*, *op. cit.*, p. 322.

9. Quoted from Washington's farewell address by J. R. Pole, *The Pursuit of Equality in American History* (Berkeley: University of California Press, 1978), p. 87.

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distinguishing between a *polis* small enough to govern itself and a large *ethnos* that must be governed.[10] Quantity affects quality. More specifically, the larger a population with self-governing aspirations, the more general, simplified and structured must be the questions on which "the people" are to decide. The effective rulers are those persons who do the generalizing, simplifying and structuring. In modern America, they are the career politicians, other political "insiders" who are formally "outside of government, and increasingly numerous unelected government bureaucrats; they have at their disposal such indispensable "facilitators" as "spin doctors" and "sound-bite managers." The political role of the masses ("masses" is better than "the people" in this context) is to periodically vote and otherwise register their carefully programmed "assent." Not surprisingly, the masses vote less frequently, otherwise express their "assent" more cynically, and feel increasingly disgusted with politics.

The response of American democracy's politicians to this widespread disillusionment is most instructive. Regardless of their promises, intentions and actions, they invariably make a bad situation worse. Perhaps they are not to be blamed personally. Be that as it may, they enjoy no successes except furthering centralism at the expense of particularism. Even the vestiges of American federalism come under renewed attack. Utterly irrelevant to all this are the merely rhetorical differences between competing Leftist and Rightist politicians. Thus, while Leftists promise to either "bring government closer to the people" or, more equivocally, "help the people to take back their government," Rightists promise to "get government off the people's backs." At least the Leftists are straight-forward architects of big government. The Rightists, however, either deceitfully or just plain stupidly implement the same statist agenda. Who can believe that it was a betrayal of the "Reagan Revolution" that "federal" spending (both absolutely and in proportion to GNP), regulations, mandated benefits and the bureaucracy grew enormously during Reagan's presidency? Even the Rightist strategy of privatizing state assets rebounds to the advantage of legislative activists and meddlesome bureaucrats.[11] Mass democracy's power

10. Aristotle, *The Politics*, VII, 4, 1326b.

11. See my "Privatization vs. the State," *The Free Market*, Vol. 10, no. 1 (January 1992), p. 5: "Privatization should augment private interests in civil society while reducing both the scope and the intensity of governmental activity. This reasonable theory, however, proves practically inoperable. It only serves to mask — and thereby facilitate — the state's growing subjugation of private interests. Western privatizers take an action-oriented, empirical perspective: privatized enterprises are desirable because they

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continues to grow, not least because "conservative" politicians fully affirm it whenever they use it to succor any parochial interests.

American democracy's distension of the scope and intensity of governmental activity is hardly atypical of democracy or, more accurately, democratization in general. Indeed, democratization always and everywhere expands the powers of central governments. Let him who doubts this *fact* consider how Europe's historical transition from constitutional monarchies to representative democracies entailed the theretofore unparalleled growth of tax burdens, the number of laws and officials, armies and powers of domestic coercion. The last two developments were interrelated through military conscription. This odious practice, which was unknown and unimaginable in the feudal kingdoms of the Middle Ages, remained exceptional until the French Revolution. Ever since, and in marked contrast to the situation under the "absolute" King Louis the XVIth, democratic statesmen have been able to *enforce* (precisely the right word) conscription in the name of "the people."

Since — not if — mass democracy universally advances centralism at the expense of particularism, mass democracy is incompatible with federalism in principle, although in practice democracy's eradication of federalism often proves to be a lengthy process. Democracies create unitary states. Under the circumstances, no one should expect a democratic unitary state to devolve, at least by democratic means, into a federal union. The truth of the matter is apparent from Spain's 20th century history. First, in 1934, the Spanish Republic and later Franco's fascist regime resolutely opposed Catalan autonomy. If a valid criterion of a liberal order is sensitivity to cultural minorities, then the Spanish Republic was as illiberal as its successor. In recent years, a redemocratized Spain has afforded Catalonia a measure of pseudo-autonomy, but this differs fundamentally from both historical Catalan demands and meaningful federalism.

Nothing like an "end of history" follows upon mass democracy's centralizing trend. To the contrary, centralizing regimes tend to draw ever more power to themselves until finally, under the weight of their enhanced operations, they collapse. This development, best exemplified by

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yield tax revenues, and the proceeds from the sale become available to finance new governmental programs. Then, too, the welfare state's 'mandated benefits' can be expanded to newly privatized firms. In contrast, government-owned businesses require subsidies that divert public spending from other objectives. Thus privatization serves the welfare state by both funding it and relieving it of some of its burdens, freeing resources for the state to meddle yet more intrusively in the lives of its subjects."

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the implosion of the Western Roman Empire, has lately recurred with the demise of the Soviet Union, Yugoslavia and Czechoslovakia. Not even in Czechoslovakia, though, did this transpire pursuant to an initiative from the center. What really happened was that Czechoslovaks, faced with a centralized order that was rapidly becoming nonfunctional, reconstituted themselves as Czechs and Slovaks, i.e., notably smaller populations which are, on that account alone, relatively more capable of self-governance. The "unwinding" of large, centralized states marks the end of one historical cycle and the beginning of a new one.

The collapse of centralized states often involves chaos, lawlessness and violence. These features of "hard" (vs. "soft") politics sometimes occur accidentally, but are not uncommonly integral aspects of the strategies of various political actors. Under some circumstances, a combination of "hard" and "soft" politics employed against a central government can produce a sort of federalism. For example, in India, which has a federal constitution, a number of new states have won New Delhi's recognition because regional populations have used both moral persuasion and insurrection to advance their causes. When Indian provincials have made the situation sufficiently chaotic, lawless and violent, the central government — speaking democratically for India's "people" — has sometimes heeded the voice of particularism. Indian federalism's long-term prospects nonetheless are doubtful because of the growing strength of the central government as an ever more modern regime based on mass democracy. New Delhi's recent reluctance to compromise with militant Sikhs in Punjab bespeaks a hardening of the government's earlier accommodating stance. At any rate, the examples of India and Czechoslovakia suggest that, although strong central governments as well as erstwhile strong ones provide fertile soil for resurgent particularisms, the initiatives for renewal must come from below. The only feasible federalism is that which grows "from the bottom up."

Tension between democracy and federalism is almost axiomatic whenever politicians try to honor these two principles simultaneously. Probably the only potentially stable way of linking democracy and federalism is by confining democratic participation to the lowest rung of a hierarchical federal structure. This was the essence of Carré de Malberg's argument: "Democracy, which is in the true sense government of the people by the people, is attained effectively by a federal organization of society; the members thereof are arranged in a hierarchy of groups by reference to community of interests, but it is understood by all that only the groups of the first degree will be the repository of

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the sovereign power; on these groups the executive agents appointed to the various groups will necessarily have to depend."[12]

De Malberg's version of federalism, while intellectually attractive, faces serious practical hurdles. Implementing it in the US, for example, would require the creation — in truth, the self-creation, and that is the most pressing imperative — of strong local democracies from which every other level of government would sequentially derive its authority. At the furthest remove from localities, the "national" government would have at least its most important functionaries appointed by the states, just as US senators were originally named by the state legislatures. Would American mass democracy's rulers — those imperious statists who generalize, simplify and structure questions for "the people" to "decide" — tolerate anything so "undemocratic"? Probably not. In the US no less than everywhere else in the world, democracy has far brighter immediate prospects than does federalism.

12. Quoted from Carré de Malberg's *Contribution a la theorie generale de l'etat*, vol. II. p. 254, by de Jouvenel, *On Power*, *op. cit.*, pp. 410-11.

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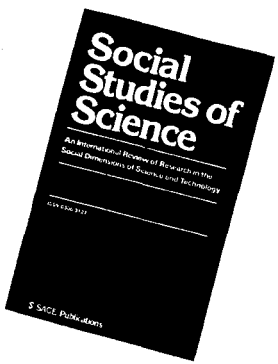
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On Really Existing Communities - Organic or Otherwise

Louise Fortmann and Emery Roe

Introduction

The good news is that *Telos* has moved beyond critique towards a positive program for federalism and communities, or what Paul Piccone calls "federal populism." While the model of federal populism seems to have shifted from the European Community to the Lombard League, this focus on examples of federalized communities is to be encouraged. The bad news is that *Telos* has not subjected "federalism" and "communities" to the same thorough-going critique it has given other notions such as "Civil Society" and the "New Class."[1] What needs to be analyzed are "really existing communities" as they are found in the US today.

Piccone goes out of his way to avoid a naive view of communities.[2]

1. On federal populism and the example of the Lombard League, see Paul Piccone, "The Crisis of Liberalism and the Emergence of Federal Populism," in *Telos* 89 (Fall 1991), pp. 7-44. The European federal system as a possible alternative to the American system is discussed in Paul Piccone and G. L. Ulmen, "Schmitt's 'Testament' and the Future of Europe," in *Telos* 83 (Spring 1990), pp. 3-34. For a critique of the notion of "Civil Society," see Paul Piccone "Paradoxes of *Perestroika*," in *Telos* 84 (Summer 1990), pp. 3-32. What remains *Telos*' best discussion — with examples — of how New Class technomanagerial behavior is at odds with localism, populism and communitarianism can be found in Paul Piccone, "The Crisis of American Conservatism," in *Telos* 74 (Winter 1987-88), pp. 3-29. A lively introduction to these issues is in Kenneth Anderson, Russell A. Berman, Tim Luke, Paul Piccone and Michael Taves, "The Empire Strikes Back: A Roundtable on Populist Politics," in *Telos* 87 (Spring 1991), pp. 3-37.

2. Of the sort that a quick reading of Jerzy Kosinski's *The Painted Bird* (New York: Bantam Press, 1976), or Betsy Hartmann and James Boyce, *A Quiet Violence: View from a Bangladesh Village* (London: Zed Press, 1983), ought to dispel quite efficiently.

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While spending considerable time showing that "populist" does not necessarily mean "racist," he does concede that individual communities may make unpalatable decisions. But Piccone's view is still naive, even with its "warts-and-all" character. What does "communities-taking-decisions" mean? When he claims that the "task of the new populism is to substitute for the nation-state small autonomous organic communities federalized within a broader framework that guarantees both cultural particularity and unimpeded economic interaction,"[3] just what do "autonomous, organic communities" refer to? If "it is a matter of reconstituting concrete individuality by allowing organic communities to develop and thrive, free of New Class bifurcations of 'spirit' into a 'popular' body and a New Class 'mind',"[4] then how do these "organic communities" become "reconstituted"? On the one hand it is claimed that "participatory democratic structures able to reconstitute viable organic communities can be guaranteed only by deploying concentric federal structures;"[5] yet, on the other, "Either communities rationalize themselves according to their own logic, or it does not happen. Their particularities must be allowed to unfold according to their own dynamics, in relation with other competing communities."[6]

If these questions have any answers, the best place to start is by trying to understand what American communities are today, how they became what they are, and how they are "reconstituted" in actual practice. One of our major points is that, even if these communities were freed of New Class regulations and bureaucracy and situated in a more loosely-coupled federal system, many communities would still end up looking very different from the "organic communities" Piccone seems to be talking about. The following objections are based on some eight years of studies of forest-dependent communities in California.[7] Many of these communities are relatively isolated geographically, perhaps as close to organic as one can get. Nonetheless, there does not seem to be a good fit between Piccone's organic communities of the future and those communities out there right now.

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3. Piccone, "The Crisis of Liberalism," *op. cit.*, p. 28.
4. *Telos* Staff, "Populism and the New Class: The Second Elizabethtown *Telos* Conference (April 5-7 1991)," in *Telos* 88 (Summer 1991), p. 34.
5. Robert D'Amico and Paul Piccone, "Introduction," in *Telos* 91 (Spring 1992), p. 10.
6. Piccone, "The Crisis of Liberalism," *op. cit.*, p. 22n.
7. Jonathan Kusel, Cecilia Danks, Yoshio Kawamura, Martin Olson, Sheila Seshan and Leslie Moody were also involved in this research.

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Defining Communities

The first problem that Piccone's program raises is how to define communities. The issue of definition obviously matters because federalism, new or otherwise, requires clearly defined units in order to work. Unfortunately, the truth is that communities are not easily defined, at least by those outsiders who make it their business to describe them. In 1955 Hillery[8] reviewed the definitions of communities in the sociological literature and came up with more than 90 different definitions, which could be grouped into three clusters: 1) those based on fixed and bounded territory, 2) those based on social relations within a territory, and 3) those based on shared identity. The third type, communities without propinquity, is particularly important for mobile occupational groups, whether professionals or the loggers studied by Carroll and Lee.[9] They found occupational communities to be more important to the loggers than the physical communities in which they lived. In any event, Strathern[10] points out that even within a recognized physical community, the definition of "local" will differ according to what is at stake. "Communities," then, are shifting and contested conceptual, social and political terrains.

How Do People Get to Be Part of Communities? What is the Admission Price?

Assume for the moment that communities can be defined, as they usually are defined, as physically bounded places. The next problem is how people become part of these communities. In some societies, this is (or has traditionally been) relatively simple. One is a member of a community by virtue of kinship ties. Or one may, as an "outsider," approach community leaders and be given land to cultivate and perhaps a fictive kin title as well. Thus community membership, kinship, property, community acceptance and residence are all bound together.

American society is rarely so simple. People may be born into a community, marry someone there, be sent there by an employer or go there seeking work or a more salubrious environment, etc. One need

8. G. A. Hillary, "Definition of a Community — Areas of Agreement," in *Rural Sociology*, No. 20 (Jan. 1955), pp. 11-23.

9. Matthew S. Carroll and Robert G. Lee, "Occupational Community and Identity among Pacific Northwestern Loggers: Implications for Adapting to Economic Changes," in Robert G. Lee, Donald R. Field and William R. Burch, Jr. eds., *Community and Forests: Continuities in the Sociology of Natural Resources* (Boulder: Westview Press, 1990), pp. 141-155.

10. Marilyn Strathern, "The Social Meaning of Localism" in Tony Bradley and Philip Lowe eds., *Locality and Rurality: Economy and Society in Rural Regions* (Norwich: Geo Books, 1984), pp. 191-197.

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not ask permission to live in a community. One need not have kin in a place to live there. One need not own property to live in a place and vote there. One need not live in a place to own property or, in some circumstances, to vote there. Thus, residence, kinship, property, influence (through the vote) and acceptance can be entirely disjointed. Indeed, using only the criteria of residence, property ownership and the vote, people could be defined as members of more than one community. Further, and perhaps more significantly to present inhabitants, there is little beyond the blunt-edged instrument of zoning — a set of New Class regulations, if there ever was one — that communities can use to keep "undesirable" people out.

Consider the effect of equity migrants[11] who drive up the prices of rural housing and land, start gourmet restaurants and art galleries and hurl themselves into local politics. They view the aftermath of their activities as a community development success story. But the local loggers, fishers and rural poor see it as an invasion of undesirables who vilify and despise them and who have *stolen their* community.

In Piccone's federal populism, communities would be much more important social units than they are now. Therefore, the terms under which and the processes by which people become community members would be crucial. Yet there is nothing coherent, let alone organic, about the present process. That is to say, there is nothing in current processes to make us suppose that, once New Class micromanagement leaves the scene, community membership, kinship, property, community acceptance and residence will come to the fore and fill the gap left behind. To put it another way, there is no reason to believe that the irreducible particularity of individual communities, once that particularity is allowed to flourish free of New Class regulations, has *anything* to do with kin, residence or community membership in the US setting. It is all well and good to keep pointing out how the Soviet crisis of bureaucratic involution is also the crisis of bureaucratic involution in the US. It does not help matters, though, to suppose that the predisposition to form "autonomous" communities is everywhere the same across the world.

Community Openness and Fragmentation

The kind of federalism Piccone envisions relies on some commonality of interest and purpose in communities. But the very openness

11. The term equity migrants applies to people who sell a house in an urban area (often at a greatly appreciated value) and move with the equity to a rural area where the cost of living, including housing prices, is lower.

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of community membership so characteristic of American communities has led to serious divisions in many of them. What Piccone fails to confront is that this openness to in-migration and mobility has historically been one of the primary "organic" values of communities in the US, and it is this openness which has rendered many communities functionally incapable today of "reconstituting" themselves into anything approaching an "autonomous" community.

Of course, pockets of local resistance to in-migration by outsiders have always existed, but it simply is not sufficient to blame this country's very long and very patent history of residential mobility on first a Civil War rupture, then New Deal welfarism, and now a New Class involution. Communities have been unstable in the American setting since this country's very beginning.[12]

Consider a more recent example. Pacific Northwest communities were destinations in the massive urban-rural migration of the 1970s and the equity migration of the 1980s and 90s. This migration has led to substantial demographic changes. Often in-migrants tended to be better educated and wealthier than long-standing residents. The result has sometimes been antagonism between mutually contemptuous and polarized cultures. Communities have been split between traditional and counterculture, straight and gay, secular and fundamentalist Christians, yuppies and working class. But perhaps the most divisive, best known and most illustrative in the present context has been the rift between environmentalists and resource users (or between preservationist hippies and redneck land-rapers, as they tend to call each other). Differing views of the appropriate nature of access to and use of forest resources have rent terrible fissures across these communities.[13] Hostilities have sometimes reached the point that people on both sides of the divide fear for their physical safety and reasoned dialogue has become all but impossible. While there are many local issues around which these communities can and do unite, the wedge of polarizing issues has driven internal community factions into alliances with outside supporters and reduced the arenas in which unified community action is likely or even possible.

These fragmented communities in which protracted civic conversations

12. In fact, if one wants to date when federal government interventions first began destroying "organic" communities in the US, why not start with President Jackson's enforced migration of the Cherokees from the Smoky Mountains to Oklahoma in the infamous Trail of Tears of 1838-39? Or why not start even earlier with . . . ?

13. These battles are sometimes portrayed as pitting long-standing residents against newcomers. It is rarely so simple. To some extent local battles are manipulated by outside players such as timber companies and national environmental groups.

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are not leading to consensus raise the larger question of just what the limits of feasible consensus in a democracy are. This raises the issues, in turn, of what would happen to these polarized communities under Piccone's federal populism. Would requiring them to contest the right to place be an example of "the irreducible particularity of Being working itself out according to its own logic"? For all its problems, the present system with its multiple and redundant arenas for action at least has the advantage of allowing community members various ways of addressing their differences. If under federal populism the community becomes the locus for most action, then all community issues risk becoming subsumed under and translated into the prevailing set of community divisions. This concentration of effort, energy and focus on conflict hardly bodes well for the future of these communities.

Outsider Control

Piccone's federalism assumes agency on the part of communities. But many communities, regardless of the form of national government, have precious little agency. Rather, their capacity to act in their own self interest is constrained by the actions (or lack of them) of others. In particular, communities are constrained by control of resources and economic decision-making by others. Forest communities in California and mining communities in Appalachia are controlled by the economic decisions of companies headquartered out-of-county, often out-of-state, sometimes out-of-country. Another form of outsider leverage is the literal control of water upstream by other social units, often other communities, a problem especially familiar in the American West and Southwest. In such situations, local autonomy is not worth two hoots if there is no overarching structure to broker the arrangements for access to and distribution of such resources. If this overarching structure is supposed to be the responsibility of federal populism, then it looks very much like what most of us expected of the old federalism all along.

Even when outside capital or other communities do not directly control local resources, local communities — whatever way they are federalized — are obviously affected by the decisions of other economic units (including those of other communities) which may determine the availability and terms of employment and access to the media. This interaction, moreover, results not because communities are in potential *competition*, as an earlier quote implied, but because of the actual *interdependence* of these communities on each other and the wider constraints that shape this interdependence. Moreover, a great deal of this

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interdependence comes from the fact that Americans, although they loathe government *regulation* in general, strongly insist on government *regulations* in particular, at least for the purposes of improving safety standards for travel, nuclear power, handguns and industrial chemicals.[14] Americans, in other words, want New Class techno-management from their federalism, just as they want to have the communities and neighborhoods they actually live in to be free of outside government intrusion. How federal populism would meet this admittedly paradoxical demand of US citizens is not at all clear.

Outsider Access

Another issue related to membership and controls is that of *ad hoc* outsider access to resources. This ranges from the homeless populations who drift toward warmer places in the winter to vanloads of commercial mushroom pickers who seasonally swarm across northern California, taking profits with them and sometimes destroying the productive habitat. These people claim no local membership, but do claim usufructuary rights. Under Piccone's federal populism will each of these people be assigned an organic community, perhaps complete with a passbook?! Where will the people go whose "organic particularity" means they temporarily or persistently fall between the cracks? How will the equity problem created by the unequal distribution of resources, natural and otherwise, be resolved? Again, if these broader distributional questions are to be the responsibility of a federal populism, what reasons — if any — are there for believing they will be addressed better than under the old federalism?

Conclusion

For all the problems with the vagueness of federal populism, especially the community side, Piccone's project remains central. Communities do matter, and they do have a future. The real challenge is to understand how. Unfortunately, people tend to come together to cooperate in a "community" only when they have to. They do so because they are under some resource stress. In some communities, the stress is seasonal, as when people get together to manage their dry season water sources before the new rains start. In other communities, the stress is more episodic, e.g., when crime increases and a Neighborhood Watch

14. Leroy Gould, Gerald Gardner, Dopnal DeLuca, Adrian Tlemann, Leonard Doob and Jan Stolwijk, *Perceptions of Technological Risks and Benefits* (New York: Russell Sage Foundation, 1988), pp. 41-44.

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becomes necessary. But the point is that nobody wants this resource stress — let government supply the water, let government deal with the crime wave. People by and large prefer not to have to manage. They do not want to have a Neighborhood Watch to administer.[15]

Of course, in such situations a common language, religion, kin group and ethnicity do count, but only in the sense of reducing what the economists call the transaction costs of having to jointly manage the resource stress in the first place. It is just easier to manage things if everyone speaks the same language, etc. One fundamental consideration follows from the management-under-stress feature of really existing communities — these communities need not be democratic or egalitarian in order to work well. Thus, in pastoral communities, decisions to move the herd or respond to fast-changing environmental circumstances are not taken democratically — they have to be taken immediately and that is what the elders do. It may be the case here that a terminally involuted federal government combined with New Class environmentalism is stress enough for some resource communities to take the management initiative on their own, but even where and when they do, there is no reason to believe the process or result will be democratic.

Communities need to do three things: self-maintenance/self-development; internal charity (helping-hand actions) and defense against outside demands and incursions.[16] External control of resources, the economy, and the media severely constrain the ability of communities to act successfully in one or more of these spheres. Further, economic stress reduces the amount of time and effort people can contribute to community-wide efforts other than their own personal survival. Piccone's vision has yet to provide any clear answers to these everyday problems of really existing communities.

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15. For a broader discussion, see Emery Roe, "Management Crisis in the New Class," in *Telos* 76 (Summer 1988), pp. 134-143.

16. Louise Fortmann, Jonathan Kusel, Cecilia Danks, Leslie Moody and Sheila Seshan, "A Comparative Rapid Rural Appraisal of Seven Forest Communities," in Louise Fortmann and Jonathan Kusel eds., *Well-Being in Forest-Dependent Communities*, Prepared for the Forest and Rangeland Resources Assessment Program (California Department of Forest and Fire Protection, 1991), pp. 77-96.

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The Politics of the Displaced Majority

Donald Warren

The Changing Character of Fin-de-Siècle *Politics*

The cultural majority is declining. Less than one in four US citizens of voting age cast a ballot in the last presidential election. A national Gallup survey in Britain recorded unprecedented "doubt and depression," with nearly half of those polled saying they wanted to emigrate; it heralded the "plummeting" of public confidence, a warning that the nation is "on the slope of moral and social decline."[1] One year after France's narrow approval of the Maastricht Treaty, there is no evidence of a growing (and much-anticipated) continental movement toward a new "European identity."

Why has the cultural majority increasingly deserted the polity on both sides of the Atlantic? What are the critical concerns of this majority apparently neglected by "establishment elites" of both Right and Left? How well are existing political and cultural institutions serving this majority? Does anyone — movement or individual — any longer speak for the majority? Is the very idea of a dominant "majority" a contingent historical stage that no longer fits contemporary realities? From 1989 to 1993, both Europe and the US have been transformed by demands for more responsive and responsible leadership, coupled with a rejection of cultural, economic and political elites. What is undeniable is the rejection of the *status quo* of established political parties and of the cultural icons of both Left and Right.

Most significant here is the fact that the purveyers of conventional wisdom regarding politics and culture (mass-media pundits and pollsters

1. *The New York Times* (February 27, 1993).

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alike) have failed to anticipate or even to grasp the meaning and direction of such a development. Yet it is evidenced by the remarkable success of independent third parties and reform leaders on both sides of the Atlantic. The 1992 US presidential campaign clearly reflected this discontent and the call for a "new politics": the candidacies of Ross Perot and Patrick Buchanan are among the critical bellweathers of a sea change in the offing. Similarly, in Canada, a fourth major political entity — the Reform Party — rose from obscurity to gain almost 10% of the vote in the 1991 provincial elections and is fast becoming a major political entity.

In the 1988 and 1992 presidential elections both major parties experienced an *absolute* decline in voter support. Only the Perot vote kept the total turnout from dropping to a new low for the century.[2] Moreover, the media hype regarding swings in ideological identification as measured by the vague terms "liberal" and "conservative" pales compared to the larger trend of distrust of political institutions in general. Thus, the so-called "turn to the right" by the majority middle class in the 1980's was less a change in basic values than a response to a hyperactive liberal establishment. Radical transformation of state-federal relations via privatization of public service agencies remained the ethos of Reagan Conservatives, not necessarily Reagan voters.[3]

What many average citizens find wrong with the Federal government in Washington is also true of their local church, union, school, workplace, state and local government: no clear or consistent policies, arrogance and indifference to those who are served and foot the bill.[4]

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2. By mid-1993, those who voted for Perot in the fall of 1992 stood firm in their rejection of both major political parties, even if some had second thoughts about the man himself. Still the *U.S. News and World Report*-sponsored national survey conducted in May of this year showed that two-thirds of the sample had favorable feelings toward Perot compared to 53% for President Clinton; three-quarters agreed with the view that the 1992 third-party presidential candidate "is trying to help the country," only 1 in 5 feeling "he is out for himself;" over 2 in 5 were reported to have more confidence in Perot "on protecting the middle class" than Clinton.

3. In one prototypical "Reagan Democrat" blue collar city, Warren, Michigan, Bush garnered only as many votes in 1992 as Dukakis won in 1988. Clinton's 2,700 vote plurality was gained despite receiving 7,000 votes less than Bush had obtained in 1988. The overall vote total in 1992 was 6,000 larger than 1988, with Perot receiving almost 13,000 votes. This same community was a hotbed of George Wallace support in the 1972 Michigan presidential primary, which he managed to win despite strong opposition from the UAW. Warren, Michigan had one of the largest locals of the union.

4. In a study of "Middle Americans" two decades ago, it was found that their concerns and anger over government were centered not on the question of size, but on the issue of "not following clearcut policies," not "treating people with respect" and "not paying attention to what people like me want." See Donald Warren, *The Radical Center* (New York: Norton, 1978), Chapter 5, pp. 68-87. Thus, "devolving" the now

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Yet, periodically, when Americans see the need for crisis coping, they identify a leading role for the federal government at the forefront of social change — either by fostering progress or by redressing the cost of uneven consequences of change. To the consternation of conservatives and libertarians, this theme, while mixed with increasing skepticism, remains an integral component of American political culture.

In the 1988 and 1992 presidential elections both major US parties showed an *absolute* drop. "Dealignment," rather than political "realignment," is a fitting description of this predicament. A similar pattern has emerged in virtually every Western nation. The *Lega Nord*'s dramatic and continuing success in Italy is but a more recent example. Winning the mayorality election in Milan offered another step on the path of remarkable success by what Woods defines as a unique populist phenomenon.[5] In analyzing the reasons for the growth of the *Lega*, Ruzza and Schmidtke stress its ability to mobilize new participants in a territorially-based identity-developing dynamic in which a declining allegiance to the nation-state is replaced by a community-building social movement.[6] And then there is the more than decade-long persistence of the *Front Nationale* in France, which, while failing earlier this year to place representatives in the *Assembly Nationale*, retained its recently achieved position as the country's third largest party.

Since 1986, Jorg Haider has led Austria's *Freiheitliche Partei* ("Freedom Party") from obscurity to center stage. While the world media and the traditional Left in Austria paint him in dramatic shades of "brown"

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bloated state bureaucracies or turning over to private corporations many of those functions which evolved from the "Great Society" onward is not a solution many Americans find especially appealing. Instead, they might find Piccone's "federal populism" far more to their liking. See Paul Piccone, "The Crisis of Liberalism and the Emergence of Federal Populism," in *Telos* 89 (Fall 1991), pp. 7-39.

5. See Dwayne Woods, "The Crisis of the Italian Party-State and the Rise of the Lombard League," in *Telos* 93 (Fall 1992), pp. 111-126.

6. See Carlo Ruzza and Oliver Schmidtke, "The Making of the Lombard League," in *Telos* 90 (Winter 1991-92), pp. 57-70. Last November, as the Northern League surged to new gains in several municipal elections in Italian cities, Christian Democratic leader Mario Segni perceived this as a political crisis "a great protest against the entire political class." He argued that the process was "irreversible," in contrast to the election of Clinton, with its exchange of mainstream parties. Change in Italy would "necessarily involve the institution of the political class, and this will only come about when we have a new state and a new political class." Remarkably, this sentiment echoes the views of Umberto Bossi, whose Northern League has shocked the political establishment. He is now advocating a "new federalism" rather than outright secession from the present Italian nation. On the League's history and outlook, see the "Special Section on the Leagues in Italy," in *Telos* 90 (Winter 1991-92), pp. 3-88.

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and attribute his success to "racism" and "xenophobia," there is a clear failure to recognize that the issues which have brought him to the forefront include bureaucratic corruption, arrogance and inefficiency. Similarly, multicultural education and the erosion of job opportunities are high on the list of concerns measured in Austrian public opinion polls. Certainly the issue of limiting asylum seekers and fears of the impact of EC membership reflect a desire to promote an "Austria first" approach by large segments of the nation's working and *Mittelstand* population.[7] Even tiny Lichtenstein has hopped on the bandwagon of a "new politics": in February *The European* reported that its 14,000 electors had "rejected the old order" by placing in the national leadership (the result of its winning 12 of 25 parliamentary seats) the new "right-wing" Progressive Citizen's Party. Clearly, a "crisis of the political class" has been emerging on both sides of the Atlantic.

In assessing the "new politics," a combination of trends is evident: rising single issue social movements, the sudden entry of new parties, and a general restlessness *vis-à-vis* liberal democracy. A few statistics illustrate this point. In November 1992, Berlin, noted for its lively grassroots political activism, recorded its lowest voter turnout in a municipal election since the end of WWII: only 61% of all eligible voters went to the polls. During this same period in Salzburg, a newly-elected city council representative defied the three major national parties by forming an *ad hoc* heterodox legion from the ranks of the Freedom Party. This particular victory is also noteworthy for the fact that the city had its lowest recorded voting level — a mere 55%.

When compared to a decade earlier, recent voting in national elections in Europe was down in ten countries: Belgium, France, West Germany, Ireland, Luxembourg, the Netherlands, Austria, Finland, Sweden and Switzerland. While claiming that this pattern is "a short-term phenomenon," political scientists reluctantly concede that it may also be a harbinger of new forms of political action via referenda, demonstrations or petitions, which all reflect a larger role of direct citizen involvement.

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7. In November 1991, Haider's party received nearly one quarter of the vote in Vienna's municipal elections. Less than a year later, Haider proposed a twelve-point referendum covering questions of classroom instruction in German, tightening asylum procedures and emphasizing the cultural agenda of Austrian identity. While falling short of the one million signatures mentioned during the petition campaign, more than 400,000 Austrians supported the referendum which called for a parliamentary debate of the key issues. There are echoes here of an American-style populist strategy by the FPO, which continues to challenge the country's ruling coalition.

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The Emergence of the Displaced Majority

Beyond specific personalities and campaign challenges, there is the larger perception of a refusal by the core majorities to participate in national elections and a rejection of the choices offered them by establishment parties. Clearly, what occurs in the political arena both reflects and creates cultural trends. Thus there is a growing recognition that neither the Left nor the Right can claim the allegiance of the majority in terms of critical social and cultural issues. If ideology has not yet ended, its current offerings no longer have the marketability they once commanded.

Major representative institutions — legislative, corporate, judicial and communal — are being called into question with respect to their effectiveness and even their relevance to pressing concerns for what may be described as "the displaced majority." This majority is not merely a numerical center of society. It is more accurately a "cultural majority" defined by the traditions and dominant historical and communal identities of people residing within the borders of given states and perhaps, most broadly, a shared transnational heritage. "Displaced" refers to the social processes — demographic, economic, political and cultural — which have reduced formerly core populations to observers and minority participants in their society. Displacement of the culturally-defined majority has been engendered by the actions of governments and institutions within a society that calls into question core assumptions regarding the primacy of these forms and the practices which have existed in the past but which are being discarded.

In the immense literature concerning "ethnic groups," shared values, history and a territorial locus (even a homeland) emphasize the social bonds that constitute human identity. Nationalism alone is insufficient. Race is too diffuse. Perhaps the term "historical community" offers a more appropriate single and sufficiently encompassing core definition. There is a consciousness pervading Western nations that what has been an inherent majority is rapidly becoming merely another ethnic minority — competing often with less cohesion and effective organization with other racial and ethnic minorities for scarce resources within the multicultural milieu of contemporary nations. Such is the underlying theme of a cultural politics of the "displaced majority."

One should not draw the conclusion that "new nations" may not be created or become viable, but rather, that the process by which this occurs is fraught with inappropriate borrowings from extraneous experiences. Legitimation of such new arrangements may be produced at the end of a gun barrel, but more significant is how pivotal elites play the major role in advancing or retarding the process.

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A New Politics of the Majority as Victim Minority?

The basic component of American historical and political "exceptionalism" has been its claim to be a "new nation" in which ethnicity as a core of society is absent, or perhaps is sufficiently elastic to encompass something other than racial or religious monism. More succinctly: there can only be a majority in terms of the polity, not the community. It follows from this that "displacement" of the majority is a purely political rather than a cultural phenomenon. Thus, to speak of European Americans as the "displaced majority" being transformed into an ethnic minority would mean that the core of society finds itself sharing its territory with others, while being denied the preservation (and public practice) of its inherited culture. Yet, this is precisely what many white middle Americans are experiencing. In contemporary political terms, to be formally recognized as an ethnic minority also implies a vibrant history of deprivations of one sort or another: the basis for claiming victim status. There is already a somewhat facetious call for WASP males to become the last group to be given rights as a victim minority.

As a minority culture alongside others, the displaced majority may claim equal attention from governments and in curricula or community "control." Disputes between Hasidim and Blacks in New York come readily to mind: in this world of diversity, no oppressive majority is in evidence, only conflict and threats between militant minorities. The eye of one's enemy will match one's own: the melting pot will be a flat frying pan, leveled but boiling nevertheless.

What if the displaced majority were to reject this "new paradigm" of the multicultural society and revolt against its own diminution? Neither conservative nor liberal in its politics, this displaced majority often presents a face of "populist" anti-politics — replete with prideful individualism and localism. Often nurtured in the womb of "protest" movements and parties, the displaced majority may demand more than the replacement of a ruling elite by a similar counter-elite (be it conservative or liberal) and thus provide a basis for what can only be described as a revolt. The startling success of state by-state support for legislative term limits in the fall of 1992 in the US is a prime example of such a development.

E Pluribus Nullum

The culture within which politics takes place and to which it is inextricably bound is eroding; that core seems to be slipping out of the hands of its creators. Without a cultural majority to guide social life there is no history, no community, no sense of identity. There are aspects of multicultural education which lead directly to such an outcome: "How would

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one write a school history book to be used in both France and Britain? How would it treat Napoleon?"[8] Without the hegemony of a majority position, are minority interests not left to struggle among themselves as the basis of public life? There is evidence of just such a dynamic in US cities in relation to pedagogical politics. That such a process centers on racial dimensions is unfortunate. However, if the battle line is drawn on the question of whose historical "myths" are to be made official and whose rejected, then education is reduced to a cafeteria of ideas, each marketed as wares at an ethnic bazaar.

In terms of those political units whose form implied a multi-ethnic or multi-cultural structure, inevitable conflicts of interest arose between well-established "peoplehoods" of specific component groups and the rising elite that governed these entities. Mastery of the linguistic and technical skills associated with the newly-emergent dominant political system required the loosening of ties with one's nation of descent — one's *people* — a task unevenly distributed according to the parochialism of that attachment. Where members of such constituent communities seek to assimilate, there are only weak demands for "multi-culturalism" in public policy; where such strategies are rejected, either because of dominant cultural resistance or the inability of the minority to rid itself of its foreignness or "otherness," there are efforts to formally legitimate a pluralistic model of society.

Critical here is the ability of large-scale, multi-ethnic societies to generate reasonably stable and democratically functioning polities. The question may be framed in terms of whether the pluralistic nation-state will be viable in the 21st century. In Europe, and to a greater extent in North America, the question on a practical, institutional level translates into one of coping with the majority as it accomodates itself to the cultural (let alone economic and political) power of ethnic minorities.

In 1992, an "America First" agenda resurfaced in the US with the candidacy of Patrick Buchanan. The labeling of these concerns as "extremist" belies the reality that issues such as immigration control and the danger of a delegitimation of Western culture have moved from the "extreme" of political discourse into the mainstream. This battle is not being fought on the streets but within educational institutions. Agreement here between Buchanan and Schlesinger offers a striking example of common cause under the banner of the displaced majority. The latter observes "the rising flow of non-European immigrants [creating] a 'minority majority' that will make Eurocentrism obsolete by

8. *The New York Times* (December 19, 1991).

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the twenty-first century."[9] Similarly, a 1991 Letter to the Editor in *The New York Times* objecting to the national celebration of Thanksgiving Day prompted the president of the American Federation of Teachers, Albert Shanker, to argue that what was being challenged was the "whole idea that there is an American — that people of different races, creeds and national origins can be united as one nation." Shanker asked: "Is the belief in a common heritage disappearing in the US?"[10]

Nationalism and Nationhood: America versus Europe

Perhaps it is useless to link the two sides of the Atlantic in terms of political cultures. Thus, the formation of the US can be seen as largely the triumph of federalism more than that of nationhood. According to Hobsbawm, nationalism refers to that principle whereby "the political and national unit should be congruent."[11] It is in this "European" sense that America lacks the basis for nationhood. Hobsbawm cites de Saint Pelaye, who in 1884 argued that the linkage of "nation" to government was relatively new; more traditionally, it has connoted land of origin and place of birth."[12] In High and Low German, *Volk* (people) has only recently acquired the same meaning as the Latin *natio*, but had earlier meant birth or descent group (*Geschlecht*). A similar point is made by Benoist concerning the classical concept of direct democracy embodying "culture cohesion and a clear sense of shared heritage."[13] As developed by mid-19th century European liberals, the nation was that evolutionary stage where the "nation of progress" assimilated smaller units. For its part, America offered such membership to all who applied. The obsessive desire for "change" which has preoccupied the politics of this "new nation" can be traced to this ever-incomplete sense of nationhood.

In his critique of Hobsbawm, Palti accepts the argument that "initially nationalism served to affirm the state's bureaucracy as a means of administrative rationalization; it was both product and part of the process of nation-state consolidation. . . . Only later did the idea of 'nationality' emerge as something different from the nation-state."[14] But he also shows how Hobsbawm's denunciation of radical forms of 20th century

9. Arthus Schlesinger Jr., *The Disuniting of America* (New York: Norton, 1992), p. 120.
10. *The New York Times* (December 19, 1993).
11. Eric J. Hobsbawm, *Nation and Nationalism since 1780* (New York: Cambridge University Press, 1990), p. 9.
12. *Ibid.*, p. 15.
13. Alain de Benoist, "Democracy Revisited," in this issue of *Telos*.
14. Elías José Palti, "Liberalism vs. Nationalism: Hobsbawm's Dilemma," in this issue of *Telos*.

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nationalism as "myth-based" misses the point since he uses arguments valid only against the 19th century genealogical concept of "nation." Since "fascism has never claimed that its concept of the nation was anything more than an ideological construct," Palti suggests that "objective" historical facts of nationhood are irrelevant in the face of the created reality of the *subjective belief in such nationhood*. What was powerful about 20th century radical nationalism was its ability to create the political infrastructure consonant with the abstract myth.

In the US context the "nationhood myth" *par excellence* is the melting pot. Thus, the legitimacy of pluralistic subgroups became incorporated in the very definition of the nation-state. Initially, such pluralism was merely formal and constitutional. What evolved was a concept of the diverse interests (loosely defined as regional, economic, religious or even ethnic) which constituted the legitimate base of authority subsumed under the rubric "the American people." Thus, Hobsbawm's "nation" and Benoist's "organized community" are fused elements of the US polity which, from the beginning, contained a poly- rather than a monomorphic structure.

Quoting Renan, Gellner argues that the formation of a nation calls for "amnesia": "To forget . . . to misrapresent history are essential factors in the creation of a nation."[15] This fits well with concepts of weakened attachment to locality and the rise of what sociologists from Durkheim to Nisbet have described as the loss of community. Thus Gellner's "nationalism" depends on the surrendering of an inherited identity or even personhood, in order to qualify for membership in the most anonymous social unit ever created: the nation-state. Two essential processes to be set in motion by this dynamic are the rejection of geographic rootedness and the linkage of social to geographic mobility. In this latter instance, to move up is also to move out of own's hometown or birthplace in order to fully enjoy the prize of membership in a homeland.

Lukacs argues that the 20th century has seen the triumph of the European idea of nationalism, which, despite Marxist challenges, remains the central social organization into the 21st century.[16] Despite how well "nation-states" have enshrined themselves, what remains to be seen is the extent to which they will survive the challenges of "tribalism." Why does this form of identity remain so powerful? It may have to do with

15. Ernest Gellner, *Culture, Identity and Politics* (New York: Cambridge University Press, 1987), p. 34.

16. John Lukacs, "The End of the Twentieth Century: Historical Reflections on a Misunderstood Epoch," in *Harper's Bazaar* (January 1993).

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the fact that it can mobilize extant modes of collective belonging while operating as movements transcending the actual spaces in which people passed most of their lives.[17] Such new social bonds are seen as a "trickle down" development traceable to administrative and intellectual elites and projected onto the fabric of the lower social strata. What is implied is that the creation of the political nation is the imposition of a powerful ruling elite and exclusive minority onto the majority culture. Yet the 19th-century "romantic" nationalism of middle Europe, with its theme of the nobility of peasant and yeoman "underclasses," reflects the "boot-strap" *milieu* for nation-building. Thus the middle strata can be seen as the pivotal force in creating coalitions with those "above" or "below" to form modern nation-states and as the most dynamic social force: not necessarily the most stable, but the most potentially revolutionary.

A plausible thesis in political science identifies the middle class as the key to the emergence of the nation-state during the last century. That nationalisms in Europe began with aristocratic and intellectual elites and then permeated the broad middle class of shopkeepers, merchants and the lower middle classes in general has been seen as producing extremist regimes such as fascism and Nazism, and also more moderate or democratic ones, which underscores the political fragility of these middle strata. In this sense, the "vital center" is defined in literal demographic terms and is best understood as open to the most dramatic shifts in allegiance to given regimes. Thus, rather than "moderate," the middle class could be viewed as highly volatile and potentially the most radical of all social strata.

In this social dynamic, middle social strata find themselves caught between the millstones of the revolutionary nationalism of those above (cultural or political elites) and the romantic nationalism of those below (the proud peasantry). When their self-interest calls for loyalty and adherence to that nationalism which is expressed in the form of a larger-scale nation-state, they are inevitably burdened with the responsibility for the survival of that social unit. Thus, in WWI, for Britain and France, if not for Germany and Austria, this stratum provided the backbone of military service and suffered the losses associated with the slaughters of that conflict.

Has Lukacs overstated the case for enduring nationalism? Only by recognizing the distinction between the nation-state as a *coercive instrument* and nationhood as an *emergent social force* can one say "yes" in the former

17. Hobsbawm, *op. cit.*, p. 46.

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and "no" in the latter. Where there is no cultural majority, there can be no enduring legitimacy for the nation-state. The instability and failure of nation-states, whether in Eastern Europe or Africa, indicate the evanescence of this form of identity in the absence of a cultural majority. In many of the newly-created countries, "movements of national liberation" are the opposite of nation-building enterprises. They are internationalist in nature and call for the breakdown of local community and the reconstituting of society on the basis of foreign models. Thus, in the end, the self-interest of elites and counter-elites rather than a cultural majority, determines the ultimate fate of these new social creations.

The European "New Right," Nationalism and the Displaced Majority

In Europe, where demographic homogeneity may more clearly link the fate of the majority to that of the nation, there is a growing question of whether nationhood is a viable basis for protecting the majority. Only ethnic minorities find a haven in the new "old" Europe. The McDonaldization of the nation appears to accelerate the fusion of cultural diversity with economic well-being for all. It is not merely that the development of a European Community may reduce the sovereignty of individual nations, but that it further promises to make such particularistic identity irrelevant. National identities, rather than expressing individualism and individual freedom, will merely serve as devices for defining common cultural traits (such as the cultural and political critique of the European New Right).

The "displacement" of the majority in Europe parallels US developments: a form of "equality in poverty" noted in the work of Claude Polin: "no longer a tyranny of a people's representative, or that of a majority which the popular sovereignty has introduced, but the tyranny of all against all at all moments."[18] Implied in this outcome would be the dethroning of any notion of a core or "dominant culture" and thus the basis for defining European nationhoods. Perhaps the critical elan of the European New Right lies in its robust dismissal of the state as the ever-widening arena enforcing conformity. Here the anti-system and anti-elitism of American populism finds some resonance. More crucial is the creation of formally-defined constituencies, clients of bureaucratic service agencies of one sort or another, which negotiate "contracts" among varying interests often defined as victim minorities. The logical politics of functioning within that system is to organize oneself

18. Quoted in Tomislav Sunic, *Against Democracy and Equality: The European New Right* (New York: Peter Lang, 1990), p. 138.

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as one of these competing entitlement entities. In opposition to contemporary statism, in locating persons within specific historical and cultural contexts the European New Right identifies community of place as an essential ingredient of selfhood and well-being. According to Benoist, "man acquires his full rights within his own community and by adhering to his national and cultural memory."[19] A "people" is not a "transitory sum of individuals" or "a chance aggregate" but rather a "reunion of inheritors of a specific fraction of human history, who . . . give themselves a common destiny."[20] This sounds close to American "exceptionalism" or populist "America First" protectionist and "isolationist" commitments.

One of the European New Right's key questions is relevant here: does national identity depend on a centralized state? How can issues such as individual character, morality, and commitment to excellence be addressed? As Europe moves away from its Marxist view of the state, there is a new interest in privatization and individual entrepreneurship.[21] This suggest that the contraposition of state vs. versus free enterprise capitalism is not only an outmoded economic description, but an empty political slogan as well. What has clearly emerged in European "new politics" is the demise of class-based parties.

Common Strands

Today, middle class discontent, rather than working-class identity, provides a basis for common interests. Ironically, protest politics and the rejection of American mass culture suggest a possible link between the European New Right and the "middle American majority," both opposing cultural displacement. A few threads could become the basis for intellectual identity. Prime among these is a common rejection of liberalism whose five (rather than seven) deadly sins are: 1) devaluing and neglect of the community of place; 2) viewing political life in purely instrumental (utilitarian, rather than intrinsically human) terms; 3) failing to identify obligations to family, neighborhood and nation as equally important as rights; 4) defining justice as centered in the formal legal system rather in informal community-based problem-coping mechanisms; and

19. *Ibid.*, p. 107.

20. Alain de Benoist, *La Cause des peuples* (Paris: Edition le Labyrinthe, 1982), pp. 55-56.

21. Thus in Austria the ruling socialist party has proposed the privatization of the capital's international airport, with revenues to be gleaned from an "approach fee" such as that being charged in the Czech Republic. For its part, Germany intends to sell or lease its very efficient highway system, with a private corporation as operator, charging an annual use fee to provide revenue to cover the operating losses of the nation's railways.

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5) defining the self as existential to the communal values and having a core embeddedness in such social entities. Benoist has outlined a principle far closer to paleo-conservative and American populist traditions than to the dominant political and cultural themes of the "political class" (Clinton's recognition of the distrust of that strata has inspired his most intensive efforts of image management).

The Communitarian Movement also offers key links both to ideas emerging in Europe and to Midwest populism. Many European intellectuals, however, seem engaged in what one observer has labeled the "recycling" of American liberalism, thereby echoing *Le Monde* editorial director André Fontaine's remark that "European intellectuals, West and East, are undergoing a unification" *vis-à-vis* utilization of "the same words and concepts and speaking of the same things . . . rights, individual autonomy, pluralism, humanism, reform, progress."[22]

As Sunic has noted, the European New Right is "far from American political conservatism and light-years away from 'neocons' and the American 'New Right'."[23] A key common ingredient of the European New Right and American conservatism, however, is a rejection of abstract egalitarianism as a basis of community life. As Kirk has noted, "Conservatives pay attention to the principle of variety. They feel affection for the proliferating intricacy of long-established social institutions and modes of life, as opposed to the narrowing uniformity and deadening equalitarianism of radical systems."[24]

The European New Right has articulated a concern for the survival of historical consciousness apart from the "official history" generated by the agents of state authority. This is not the manifesto of an intellectual movement generating a counter-elite *Weltanschauung*, but reflects instead the notion of a genuine history of the life experience of the majority members of a society. So long as that experience and that knowledge (as well as its codified norms and communal structures) persist, one may still speak of a nation and national character. When Benoist speaks of a materialistic "soft American totalitarianism," he means the erosion of values rooted in a sense of community and destiny beyond the shallow bases of consumerism. In this sense, the European New Right offers a more critical assessment of American liberalism than do the American New Right or neo-conservative movements.

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22. *The New York Times* (July 7, 1990).
23. Sunic, *op. cit.*, p. 20.
24. Russell Kirk, *The Conservative Reader* (Place: Publisher, 1987), p. xvii.

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In summary, then, among the most recent experiences common to both Europe and North America is the rise of a new type of political leader, even new political parties that challenge conventional wisdom regarding the role of "independent," "populist" or "protest" movements. Many of these new leaders and parties have been labeled "extremist" — a vague term used to frighten the majority and exclude all but the most bland of political and cultural positions. Sadder yet, such labeling tends to obscure the unique elements of the evolving political ideology, where the "old Left" and the "old Right" can find common ground.[25] As a guidepost to political direction, even "liberal" and "conservative" do not adequately fit contemporary realities.

Here a number of questions come to the fore: Can the ruling parties in Europe and American regain public trust? Using Toynbee's categories, to what extent is there a failure of leadership in which the demands, expectations or quality of political institutions tend to insure the preservation of "dominant" (establishment) over "creative" elites? What are the prospects of "new" parties and movements? Do these trends represent a crisis of faith in representative government itself?

Thus far the 1990s have brought about a break with the social order created in the wake of the outcome of WWII. A new politics is emerging with startling consequences. The dramatic events of the first years of this decade have challenged beliefs and assumptions, particularly about the nature of the nation-state, its "established" political forms and the ubiqitious role of government and mass education. Often nurtured in the womb of so-called "protest" movements and parties, the "displaced majority" as a mobilized force may demand more than the musical-chairs replacement of one ruling elite by a similar counter-elite; the mood of revolt thus far evident may signal the end of a consensus political culture on both sides of the Atlantic.

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25. A dramatic example of this dynamic is evidenced by the July 1993 publication of an "appeal to vigilance" statement by a committee established in January 1993 by 40 French intellectuals. In its manifesto published in *Le Monde* (July 13, 1993), the new group expressed its worry that "the resurgence of antidemocratic currents of the extreme right in French and European intellectual life" signalled a strategy of "legitimation" in which writers, publishers and media publicists were engaged in a virtual conspiracy plot — "a big seduction campaign targeting democratic personalities and intellectuals some of whom are known as leftists." According to the "vigilance" committees, the danger lies with the extreme right effort to use 'all the means at its disposal . . . from increasing dialogues and debates concerning, for example, such issues as . . . the end of ideologies . . . the supposed disappearance of any political gap between the Left and the Right . . . and the alleged resurgence of ideas concerning the nation and cultural identity."

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Notes and Commentary:

The Differential Character of Traditions

Willi Goetschel

> It may be that the continuity of tradition is merely appearance. But then the very permanence of this appearance of permanence provides the basis for the continuity of tradition.
>
> — Walter Benjamin[1]

To some, tradition is a framework for human existence, which can either be accepted or ignored.[2] In modernity however, tradition, like everything else, undergoes a major transformation. In this process, it is turned into a modern concept. Thus, everything traditional has become functional. This conversion is a crucial moment in the genesis of modernity itself. As such, any discussion of tradition immediately raises the question of modernity.

According to Nietzsche, "all concepts in which an entire process is semiotically concentrated elude definition; only that which has no history is definable."[3] Tradition seems to prove the point. If tradition is more than just history regionalized or familiarized, it has to be conceptualized in relation to history. The urge to return to tradition is related to the current crisis of history. "Tradition" seems to respond precisely to the exigencies of this current predicament. The reification of tradition in mass production fills the coffers of New Age-sectarianisms and other similar enterprises, which live off the need and longing for temporal stability, authenticity, originality; in short, tradition.

The Enlightenment's de-theologization of history was meant to dissolve the normative clamp of the history of salvation and to break it into fragments of temporal occurrences. This enabled the transition from a unified history to a mediated approach to tradition. It suggested a paradigm change which was to

1. Walter Benjamin, *Passagen Werk* (Frankfurt a. M.: Suhrkamp, 1982), p. 609.
2. Although everyone assumes knowledge of what tradition is and does, such is clearly not the case — at least judging from the recent symposium on the subject. See "Symposium on David Gross' *The Past in Ruins*," in *Telos* 94 (Winter 1992-93), pp. 5-102.
3. Friedrich Nietzsche, *Zur Genealogie der Moral*, in Giorgio Colli and Mazzino Montinari, eds., *Sämtliche Werke. Kritische Studienausgabe* (Berlin/München: de Gruyter/Deutscher Taschenbuch Verlag, 1980), vol. 5, p. 317.

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occupy a central place in the project of some exponents of the Enlightenment.

Spinoza was among the first to interpret tradition in the modern way. In his *Theological-Political Treatise* he presents one of the first theories of Biblical hermeneutics. Specifically, he addresses the question of why the Hebrews, whose institutional and political framework was destroyed with the second temple, are still alive and well after thousands of years, carrying out old religious practices. His answer is that tradition upholds the social bonds that guarantee the Jews' survival. He analyzes tradition as a purely sociological fact. As such, it becomes a freely disposible heritage that can be manipulated by the powerful to maintain social order. Thus, in a Machiavellian move, tradition becomes an institution which follows the laws of power and politics. Independently of its content, tradition — now as a socio-political fact — falls under the jurisdiction of political philosophy. Consequently, tradition can be changed, questioned or abandoned, as Spinoza was forced to do himself. According to him, nations are different only in their social orders and laws,[4] which are only valid for the polity which instituted them.[5]

To refute tradition, Spinoza found that he had to operate within tradition to obtain a critical grasp of it. In the process, he realized that not every tradition need be rejected as false. Thus a critical appropriation of tradition presupposes an understanding and reinterpretation which is always to some degree steeped in the tradition it transforms.[6] To illustrate this Spinoza quotes the Dutch proverb "*Geen ketter sonder letter*" (No heretic is without his letter).[7] Therefore, any reinterpretation of tradition necessarily refers to its own *understanding* of tradition. It is this rephrasing of tradition from within which drove Spinoza's contemporaries to sheer madness because it signaled the break-up of tradition as a self-sufficient notion and opened it up to creative appropriation, whereas any 'traditional' polemic would just have unintentionally reinstated the claims of tradition.

In Lessing's *Nathan the Wise* — in some ways the staging of Spinoza's argument in the *Theological-Political Treatise* — it is the ring parable, the *Märchen* as Nathan so succinctly calls it, which paradigmatically performs this move. Whereas Lessing's *Education of the Human Race* proceeds in theologically inspired historical stages, *Nathan the Wise* addresses the key issue of religious difference as one of different traditions. To interpret all three Biblical religions — Christianity, Islam and Judaism — as traditions set the stage for the meta-traditional level. This level is not hypostatized as an ontologically secure domain, but is presented as a regulative idea — as a precarious entity never attaining unconditional

4. Benedict de Spinoza, *A Theologico-Political Treatise and a Political Treatise*, trans. and ed. by R. H. M. Elwes (New York: Dover, 1951), p. 46.

5. *Ibid.* p. 76.

6. *Ibid.* pp. 107 and 173. In this passage Spinoza is forced to assume the correctness of the Massoretes' textual tradition. The Massoretes added vowels to the Hebrew text of the Bible and, therefore, to some extent, already interpreted it.

7. *Ibid.* p. 182.

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validity.[8] Nathan's business is to negotiate truth. The decisive step here is the transformation of history into tradition. In modernity, tradition is anything but a naive, primitive concept. It presupposes a consciousness aware of its own historicity — its contingency. As with identity, tradition emerges as a concept when its contingent character is challenged by another tradition. Like identities, traditions do not grow and develop independently. They do so in relation to and in interaction with other traditions. It appears to be impossible to speak of tradition in the singular. No tradition can be imagined as isolated and self-contained. Traditions derive their power from interaction and often complex interdependences. Nevertheless, if there really is a tradition of construing traditions as isolated entities, there is also a tradition of traditions refusing such fixations. While in the middle of the 18th century a shift can be observed from multiple histories to a singular concept of history,[9] tradition was also broken into the multiplicity of traditions. The paradox of modernity lies in this duality.

Languages, nations, identities, disciplines etc. all function in relation to other languages, nations, identities, disciplines, etc. Isolation of any one unit results in arresting the dynamics of exchange between them, which is the lifeblood of traditions. Thus tradition is a concept which emerges with the development of historical consciousness. To some degree, it is a typical Enlightenment idea.[10] Lessing's *Nathan the Wise* historicizes history in a way that became crucial for the conceptualization of history in the 18th century. The past was removed from the present and could only be theorized as reflected yet distant representation.[11] When the temporalization of the historical perspective formats everything as a singular event, tradition is retrospectively projected into the distant past. Thus tradition is always an *a posteriori* function of historicizing.[12] Only an intellect

8. On the dynamics of reason and belief, which is at the heart of the constitution of reason in Nathan's Job-like experience, see Willi Goetschel, "Zur Geschichte des Widerspruchs in der Neuzeit" in *Wege des Widerspruchs. Festschrift für H. L. Goldschmidt* (Bern: Haupt, 1984), pp. 9-40, especially pp. 16-20.

9. See Reinhart Koselleck, *Vergangene Zukunft. Zur Semantik geschichtlicher Zeiten* (Frankfurt: Suhrkamp, 1979).

10. Cf. the entry "Tradition, Traditionalismus" by Siegfried Wiedenhofer in *Geschichtliche Grundbegriffe* (Stuttgart: Klett-Cotta, 1990), Vol. 6, pp. 607-649, esp. 629ff.

11. Reinhart Koselleck has retraced the epistemological steps Chladenius took to found historical reflection. This happened around the time Lessing was writing. Cf. his *Vergangene Zukunft*, *op. cit.*, esp. the chapter "Standortbindung und Zeitlichkeit." Cf. also Wiedenhofer, "Tradition, Traditionalismus," *op. cit.* p. 635, where he suggests that the rapid career of the modern concept of tradition outside theology is probably connected to the fact that it promised to compensate for the problems which arose because of the transition from "*Historie*" to "*Geschichte*." At that time the term acquired an ambivalent meaning as that which constitutes, but also restricts humanity. Thus, in Herder, tradition becomes chance as well as fate: "order of nature" and "opium for the mind." Quoted in Wiedenhofer, *op. cit.*

12. Cf. Hermann Lübbe, *Geschichtsbegriff und Geschichtsinteresse. Analytik und Pragmatik der Historie* (Basel: Schwabe, 1977), p. 331.

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conscious of its relation to its own history can conceive the specific *ensemble* of its culture, customs and life-style as a tradition. As long as it remains "the" tradition, there is no possibility for a concept of tradition. In this regard, any attempt to conceptualize tradition moves, for better or worse, within the parameters of the Enlightenment; "tradition" is anything but a traditional concept.

Moses Mendelssohn's *Jerusalem or on Religious Power and Judaism*[13] is an interesting example of the way enlightenment philosophy reflects this issue. At the crucial point in this groundwork of modern determination of Judaism, just before Mendelssohn introduces the particularistic status of Jewish religious and ceremonial laws, he launches into a digression on the origin and nature of scripture.[14] He argues that the scripture is a human invention which developed naturally with the use of language. Implicitly, this argument for a natural origin of language and scripture opts for an understanding of tradition which refuses to ascribe any sacred or divine character to tradition itself. Transcendence remains, strictly in accordance with monotheism, reserved for God alone, whereas the scripture and its interpretation follow the same criteria of reason to which all human activities are subject. As a result, human language and sense transmission transforms even that which may have had divine origins into a purely human artifact. In other words, tradition functions within a framework of immanence. In the context of Mendelssohn's theory of language, this means that tradition is itself understood as an intrinsically mediated concept. This does not necessarily relativize the value of tradition altogether. Rather it works to reduce its validity from a universal to a particularistic claim which, because of its restrictions, remains compatible with reason. Tradition thus receives qualified validity precisely because of its restrictive self-conscious application. However, Mendelssohn does not yet address this issue directly but, although no less effectively, by way of a sophisticated theory of the scripture.

When Max Weber distinguished "traditional" legitimation as one of his three types of authority, he deployed a rudimentary concept. Such a reductive use of tradition is possible, but it does not lead exactly to a differentiated understanding of the problem since tradition in the modern sense denotes that moment when business as usual has turned problematic. Tradition, then, takes on the task of compensatory legitimation when actual "traditional" legitimation is no longer viable. Tradition fills the legitimation gap when business as usual is challenged. This happens when alternatives, i.e., other traditions, emerge as potential competitors. The virtue of Weber's analysis is that he highlighted tradition as a type of justification, if not domination *tout court*. But this is precisely what makes this kind of legitimation suspect.

Kant concludes his *Critique of Pure Reason* with "The History of Pure Reason," the book's shortest chapter, which he thought "future workers must

13. Transl. by Allan Arkash, introduced and commented by Alexander Altmann (Hanover and London: New England University Press, 1983).

14. *Op. cit.* pp. 104-118.

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complete,"[15] since at the time there was no history of pure reason. Rather, there were many buildings in ruins.[16] If the term "critique" before Kant denoted the philological task of restoring a text and re-establishing its authenticity, Kant redefined critique as a complex epistemological procedure for the construction of knowledge. As a result, authenticity is replaced by the transcendental method of critique. Tradition, or what remains of it, is absorbed into the epistemological subject's table of categories and judgments. Whatever is not *a priori* becomes freely disposable. But this also implies the uncritical acceptance of Kant's *a priori* assumptions. To the extent that these categories and judgments fix the conditions for the possibility of knowledge, they are no longer negotiable. These are the costs in Kant's epistemological economy. His project is not *Bildung* but *building*.

For Kant *Bildung* is nothing more than historically contingent behavior. To form (*bilden*) is to form after an original. The paradigm of *Bildung*, the plaster cast, stands for everything Kant rejects. About the man who has only learned "historically," who has gathered his knowledge only from lecture halls and textbooks, Kant says: "He has grasped and kept; that is, he has learnt well, and is merely a plaster-cast of a living man."[17] *Bildung* — the plaster cast — is thus already discredited. *Building* — Kant's project — takes its cues from architecture; it is the model for his epistemological enterprise.[18] It transcends what might be called Rousseau's plant-pot theory, according to which the seeds will develop to their full potential only if they are watered properly and allowed to grow.

Transposed into Romantic rhetoric, this plant-pot theory conjures Teutonic forests and wildlife of all types as a cultural paradigm. In fact, Fichte bases his theory of language, culture and national identity on just such a theory.[19] Nietzsche's blond beast marks the desperate end of such evolutionary phantasies. The relentlessness with which political Romanticism nurtures its organic illusions indicates the kind of ideological vengence with which the concept of *Bildung* is charged. Kant's caution about the merely regulatory and heuristic nature of the teleological concept of growth and development is quietly but effectively swept under the rug of Romanticism. Even though for centuries the plant-pot model has illustrated the process of formation, it needs to be challenged.

Goethe's *Wilhelm Meister* is not only the paradigmatic *Bildungsroman* but also

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15. Immanuel Kant, *Critique of Pure Reason*, trans. by Norman Kemp Smith (New York: St. Martin's Press, 1965), p. 666 (A 852/B 880).

16. *Critique of Pure Reason*, p. 666 (A 852/B 880).

17. *Critique of Pure Reason*, p. 656 (A 836/B 864). For a discussion of Kant's concept of enlightenment, see Willi Goetschel, "Aufklärungspublizistik: Kants Begriff der Aufklärung," in *Kant als Schriftsteller* (Vienna: Passagen, 1990), pp.127-145.

18. *Bildung* can mean, in different contexts, culture, formation and education. The concept of an *Architectonic* as theory of the building blocks of the *prima philosophia* has been formulated by Kant's contemporary Johann Heinrich Lambert to whom he originally planned to dedicate his *Critique of Pure Reason*. Lambert, however, died in 1777, five years before the *Critique* was published.

19. See Johann Gottlieb Fichte, *Reden an die Deutsche Nation* (Hamburg: Meiner, 1978).

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calls into question the ideal of *Bildung*. At the point of transition between the Renaissance ideal of full self-realization and the division of labor as the pervasive model of modern times, the novel communicates the *aporia* of bourgeois *Bildung*. As Adorno puts it: "Thus the moment culture exists it already ceases to exist. Teleologically its decay is determined from the start."[20] The precarious space *Bildung* occupies within the gap accounts for the idiosyncratic blend of double-edged nostalgia it implicates: "In the current historical situation, there are many good reasons for Alexandrianism, exegetic submersion into writings that have been handed down . . . . The interpretation does not seize what it finds is the valid truth and nevertheless it is aware that there would not be any truth without the light whose traces it follows in the texts."[21]

Dreams, as Benjamin well knew, carry their own Messianic potential. The commodification of *Bildung* could effect this, even where its mass appeal took on the shape and taste of plaster. What stuck with it was the esthetic quality *Bildung* seemed to presuppose. But what was to be a matter of refinement of taste could not be disputed, or so it was claimed. This led to the depoliticization of culture even before its debut. The history of literary criticism in Germany illustrates this.

The tendency to use literature and literary criticism to create a public sphere was reversed once Romanticism redirected literature and literary criticism to the private sphere of the intimate celebration of subjectivity. Just released in Kant's epistemologico-political attempt at liberation, the subject was quickly employed in the Romantic cause. In reality, as Goethe's *Wilhelm Meister* asserts, *Bildung* was all-too-smoothly replaced by *Ausbildung* (external differentiation) plus *Einbildung* (internal differentiation); *Bildung* found itself relegated to the purely aesthetic quality of the ornamental. Schiller tried damage control. History received a new aesthetic quality: the didactic function to fashion identity. Tradition reappeared and was blown up to the larger-than-life proportions of national history — Kant's project of a world-historical history gone tribal.[22]

Reversing Kant's hierarchy of the faculties, where reason precedes understanding, Schlegel positions understanding as the primary faculty. Congealed into sediments of tradition, history posits these sediments as the originally given that demands understanding. Hermeneutics becomes for Schlegel the technology for an adequate understanding of culture. Understanding is turned into the instrument of interpretation to reach understanding. Circling unto itself,

20. Theodor W. Adorno, "Theory of Pseudo-Culture," in this issue. Adorno's best account of the appropriation of tradition can be found in his opening paragraph to "On the Final Scene of Faust," in *Notes to Literature* (New York: Columbia University Press, 1991), trans. by Shierry Weber Nicholsen, Vol. 1, p. 111. Cf. also Adorno, "On Tradition" in *Telos* 94 (Winter 1992-3), p. 78: "But it is inhuman to forget because accumulated suffering will be forgotten and the historical trace on things, words, colors and sounds is always of past suffering. Thus tradition today poses an insoluble contradiction."

21. *Noten zur Literatur*, *op. cit.*, p. 129.

22. It is no coincidence that tribes became the epistemic model for tradition at the moment of the German reactive construction of its national identity.

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all truth appears relative to understanding, which knows no error.[23] For Schlegel the true method of presentation is historical.[24] As everything is dissolved into history, the classic becomes that part of the individual which is "real."[25] The classic is what makes things reach their full potential, whether in human history or natural history. In a crucial intervention, the leading philosopher of Romanticism transforms tradition into a quasi-ontological entity. While tradition provides the framework within which understanding functions, the ontologization of tradition is the price hermeneutics pays.

Equated with history in general, tradition became fused with law. It was the particular's promotion to universalism. This was the achievement of the *Historical School of Law*. The Enlightenment's distinction between tradition and history was revoked. The postulation of tradition as a monolithic block instead of something differentiated became possible only because it applied the Enlightenment concept of tradition to a counter-Enlightenment cause. This explains the two sides of traditions: the emancipatory, potentially liberating, and the conservative, potentially repressive. Thus tradition cannot be defined independently of its particular historical context. It is a differential concept: defined by its differences from other traditions. As a result, any interpretation of tradition as primary is automatically suspect.

Both historicism and its critics were caught within the Romantic institutionalization of tradition. At its best, the most radical critique of historicism outdid historicism by leading it to its logical consequences. But rewriting genealogies of logics of morals did not enable Nietzsche to transcend the restrictions of historicism. The precarious, idiosyncratic position tradition subsequently occupies is perhaps best illustrated by Kafka's enigmatic story "Before the Law." There the simple man from the countryside comes to the Law and wishes to enter it. Not now, the doorkeeper tells him, maybe later. The man never manages to enter the Law and spends his lifetime waiting outside, then he dies. There are obvious elements of Jewish tradition in the story.[26] But Kafka's point is not to celebrate any tradition *as such*. On the contrary, Kafka brings tradition into full play and offers a way to engage in the question of the meaning of tradition. For Kafka, the Law is one of the traditional names for tradition.[27]

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23. Friedrich Schlegel, *Transcendentalphilosophie*, ed. Michael Elsässer (Hamburg: Meiner, 1991), p. 94f.

24. *Ibid*. p. 102.

25. *Ibid*. p. 104.

26. Margarete Susman, "Früheste Deutung Franz Kafkas (1929)," in *Gestalten und Kreise* (Zürich: Diana, 1954), 348-366; Walter Benjamin, "Franz Kafka. On the Tenth Anniversary of His Death," in Hannah Arendt, ed., *Illuminations* (New York: Schocken, 1969), pp. 111-140 and Benjamin's correspondence with Gershom Scholem. See also Ulf Abraham, "Mose 'Vor dem Gesetz.' Eine unbekannte Vorlage zu Kafkas 'Türhüterlegende'," in *Deutsche Vierteljahrsschrift* No. 57 (1983).

27. Of course, "Torah" and "Halaha," both mean "Way," or "Direction" but their traditional translation has been "law." And that is how they function in "traditional" interpretations.

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Biblical and Rabbinical references are pervasive in Kafka, although in an indirect, coded manner. It is what creates the peculiar quality of "present absence" in Kafka's work. This poetic engagement of tradition represents an implicit commentary on the significance of tradition. Already the title of the story and its place in the introductory writings to the law (and by virtue of the narrative device of having it told to K. by the cathedral's chaplain; as it were, a story within a story of a story) point to the position in which K. and the reader find themselves *vis-à-vis* the law. They both remain stuck in the same position as the man from the countryside: at the door, before the law. Tradition thus cannot simply be entered or, for that matter, exited. We are always outside it, at its threshold. But because of its ethereal yet encompassing transcendence, we are at the same time inside the law, which may be why we are always "before" the law. This dual aspect expresses precisely what lies at the heart of tradition.

Problematizing tradition is thus an integrative factor of tradition itself. Where it ceases, tradition is reduced to cult, ritual, reiteration, repetition. In the ancient meaning of the word, *traditio* is identical with transmission, surrender of the key to the gates, treason, a "trade." To search for the key to traditions seems to be the preoccupation of modern life. It is Benjamin's and Adorno's conviction that such a key has probably long been lost. Tradition then takes on a meaning opposite to the one it had in the pre-modern world. The key now becomes the metaphor for the complicated process of mediation: the hermeneutic image for hermeneutics. The attempt to unlock the gates now means to release the potential of meaning instead of capturing it.

In the same way that today the concept of history presupposes a theory of history,[28] the concept of tradition presupposes a concept of modernity. Searching for the authenticity of tradition means replicating Don Quixote's misadventures or, to use a less refined image, end up like the clown who kicks the ball he wants to grasp. There is a dialectics inherent in the concept of tradition: Benjamin's "Dialektik im Stillstand" (Dialectics at a Standstill) — developed on the basis of Kafka's poetics — points out that such a dynamic is inherent to any approach to tradition.[29]

It quickly becomes clear that a monocultural approach to tradition obfuscates some of the crucial issues. This is no less true where this happens under the rubric of multiculturalism. Isolation and distillation of a single tradition, if this were possible, would implicate an artificial reconstruction or rather a projection of precisely those elements engineered by the epistemological interest guiding the operation. More problematically, such approaches would miss the decisive moment of traditions. This presents a severe problem to national

28. Koselleck points out that this is standard fare since Köster's entry on history in the *Deutsche Encyklopädie*. Cf. Koselleck *op. cit.*, p. 56.

29. Cf. the celebrated Kafka essay by Walter Benjamin and Adorno's elaboration "Notes on Kafka" in *Prisms: Cultural Criticism and Society*, trans. by Samuel and Shierry Weber (London, 1967). See also Willi Goetschel, "Kafka's Negative Dialectics" in *Journal of the Kafka Society of America*, No. 9 (1985), pp. 83-106.

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philologies which have regularly attempted to construct their traditions by excluding anything they call "foreign."[30] Goethe already pointed out that "the old literature of one's own nation should be looked at as foreign."[31] Since any intercultural approach ignores the fact that culture itself is already defined by exchange, to approach tradition by way of an inter-traditional framework is tantamount to reiterating the question. But the specific nature of the mutual constitution of traditions would remain unaddressed. It is not until traditions are approached from a trans-traditional perspective that the dynamics of their interfacing comes into view.

The same is true for the "high traditions" of philosophy and literature as for those of religion and folklore. Feuerbach used to emphasize that culture does not need to be more complex than its basis. This means that the process of differentiation in cultural production is not necessarily qualitatively different from that of material production. The constitution of traditions in the cultural sphere takes place as the differentiation of practices, forms and customs. This might lead one to define tradition as that which breaks tradition, challenges it, questions it, transcends it. A dead tradition is one which no longer changes, one which has come to a stop, one which is handed down as a *corpus* for epigones to follow. But epigonism is a cultural appropriation as dubious and problematic as any other and its claims to tradition represent the traditional option of transfixing tradition to unchangeable contents. As such, the seemingly most static tradition rests on an interpretative-appropriative intervention in terms of questions of legitimacy not different from other forms of appropriation. But even mere repetition, if it were possible, always entails innovation. Repetition means modification. There are never identical situations. The determination of whether or not situations are identical implies an interpretative intervention. Orthodoxies and fundamentalisms are thus to be understood as products of modernity. As byproducts of modernization, they cannot be explained away as obsolete relics of a long-gone world of which they were never a part. Rather, in their idiosyncratic way they express the very predicament of modernity. Thus they do not assume an ontologically protected status but present just another option for instantiating tradition.[32]

Likewise, literary traditions draw their power from the continuous injection of contradicting interventions — interventions which challenge literary traditions. In this regard, tradition can be described as the cultural feature which makes

30. Cf. Willi Goetschel, "Germanistik in den USA," in *Weimarer Beiträge* No.3 (1993), pp. 325-343.

31. In an early version of the preface to *Truth and Poetry*, in Goethe, *Sämtliche Werke. Jubiläumsausgabe* (Stuttgart/Berlin, 1902-1912), Vol. 24, p. 270.

32. The situation of Jewish 'orthodoxification' in 19th century Germany and the processes of what Laroui calls 'traditionalization' are cases in point. See Abdallah Laroui, *The Crisis of the Arab Intellectual. Traditionalism or Historicism?* trans. by Diarmid Cammell, (Berkeley: University of California Press, 1974).

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change possible as it accomodates itself to change: it is the medium, the transmitter, the transformer and integrator of social life.

Benjamin may be right when he claims that tradition is characterized by the appearance of continuity. The constitution and reconstitution of tradition is that evasive moment which conditions tradition even in its minutest detail. Thus traditions seem to operate best in the context of a constellation of interdependence and exchange between different cultures. When they are merely "mechanically reproduced" they seem to fall into "decay." The fact that traditions can only be meaningfully interpreted in conjunction with other traditions makes it clear that tradition cannot serve a prescriptive or normative purpose. Rather, any kind of application to such purposes would imply a change in the concept. Traditions can thus function only if they remain restricted within the parameters of critical thought. They cannot and never have served the purpose of legitimation. Rather, they have always been understood to function as the medium[33] or discursive sphere through which legitimation is represented.

Traditions cannot replace legitimation. They represent symbolizations of legitimation processes. Legitimacy has always been understood as prior to tradition. It belongs to the realm of the political. Within such a framework, traditions might contribute to identification and self-understanding. And that is all that is needed.

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33. To cite neo-Platonic and Kabbalist sources would only mean pointing to some possible traditions; there are others and in the contemporary world they, like all traditions, have long lost their pristine innocence.

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The End of Art - Again: Afterthoughts on the German Literaturstreit

Eva Geulen

It is not empirical evidence alone which suggests that the "end of art" never happened: not when Hegel theorized the death of art as the life of philosophy, not when Heine announced the end of the "artistic period" on the occasion of Goethe's death, not in the so-called decadence of the last *fin de siècle*, not in Benjamin's theses on the end of auratic art, not in the "zero hour" of Germany in 1945, not on the occasion of Parisian graffiti in 1968 ("l'art est mort, ne consommez pas son cadavre!") and not now that influential German journalists and critics such as Frank Schirrmacher and Ulrich Greiner have announced the end of East German art, as well as of a certain post-war West German literature deemed "guilty by association."[1]

Given that the end of art is a historical topos and that its repeated invocations constitute something of a tradition, this end does not designate a fact or an event which can be welcomed or lamented, nor even a standpoint to be attacked or defended. Nevertheless, wherever and whenever the end of art is proclaimed as a function of periodization it effectively polarizes the debate. Despite this divisive impact, the end of art has proven to be a most patient topos, equally valuable and essentially indifferent to the political agenda it helps to articulate.

As an intellectual gesture or a cultural strategy which crosses political and ideological differences, the end of art is not just any tradition but one of modernity's central, perhaps constitutive traditions. Modernity (like the bourgeoisie which facilitates its rise), was defined precisely in terms of its ability to break with traditions. However, the political effectiveness of this tradition of breaking with tradition depends on the extent to which the end in question

1. The documents relating to the proclamation of the "end of art" in 1990 — initiated by the belated publication of Christa Wolf's novella "Was bleibt" (What Remains?)— have been anthologized in Thomas Anz, ed., *Es geht nicht um Christa Wolf. Der Literaturstreit im vereinten Deutschland* (Munich, 1991). Cf. also "Karl Deiritz and Hannes Krauss, eds., *Der deutsch-deutsch Literaturstreit oder, "Freund, es spricht sich schlect mit gebundener Zunge." Analysen und Materialen* (Hamburg: Luchterhand, 1991). "The non-communist Left has no reason to confess to guilt by association for the bankruptcy of a state socialism it has criticized all along." From Jürgen Habermas, "Nachholende Revolution und linker Revisionsbedarf. Was heißt Sozialismus heute?" in *Die Moderne — ein unvollendetes Projekt. Philosophisch-politische Aufsätze 1977-1992* (Leipzig: Reclam, 1992), second edition, p. 224.

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can be rendered authentic. For this reason, most proclamations of the end tend to be accompanied by a redefinition, reinvention or rewriting of the supposedly exhausted tradition. Any proclamation of an "end" is caught in the contradiction that it not only partakes in a specific tradition but also produces one.

In recent years discussion of ends in general (whether apocalyptic or triumphant) has been prominent in very different contexts: the end of the Cold War, *The End of Nature* (MacKibben), the end of modernity (Baudrillard) and, of course, the *End of History* (Fukayama). The German debates about the fate of literature — East German literature in particular and leftist literature in general — constitute only a specific instance of a more general proclivity to engage in the politics of ends for the sake of politics. But an analysis of the German debates can help illuminate a general problematic inherent in any "end of art" which is now emerging with uncommon clarity in the case of Germany. Since Germany has a well-known history of privileging the cultural domain as a political space, these debates exhibit most prominently the particular *aesthetic logic of form* operative in the "end of art."[2] The very invocation of the topos reenacts this aesthetic logic and thereby continues a process which Walter Benjamin once termed the aestheticization of politics.[3]

The most recent proclamation of the end of a certain post-war literature of both former Germanys leaves no doubt about the political function of reperiodization shared by all proclamations of "ends" — first and foremost the end of art. Greiner's perversely frank dictum that "he who decides what was also decides what will be,"[4] betrays the ursupatory ambitions of much of the current *Vergangenheitsbewältigung* [coping with the past — a term that used to refer exclusively to the Nazi period]. What began in German *feuilletons* on the occasion of Christa Wolf's perhaps ill-timed publication of *Was bleibt*[5] as the

2. Given that the end of art was first announced in Hegel's *Lectures on Aesthetics*, this aesthetic dimension comes as no surprise. In Hegel the end of art marks the beginning of the philosophical truth of art. But the specific relation between the end of art and aesthetic theory has largely been ignored. Karl Heinz Bohrer took the end of art debate as an occasion to call attention to a tradition of aesthetic theory which never fared well in Germany and which Habermas has recently deemed irrational: Schlegel, Nietzsche, Heidegger, Adorno. What for Bohrer was a question of the tradition of aesthetic theory was translated into a program of "*l'art pour l'art*." Cf. Karl Heinz Bohrer, "Die Ästhetik am Ausgang ihrer Unmündigkeit," in *Merkur*, Nos. 10-11 (October-November 1990), pp. 851-865.

3. Walter Benjamin, "Das Kunstwerk im Zeitalter seiner technischen Reproduzierbarkeit" in Rolf Tiedemann and Hermann Schweppenhäuser, eds., *Gesammelte Werke*, (Frankfurt a. M.: Suhrkamp Verlag, 1974); Vol. I, Part 2, p. 508.

4. Ulrich Greiner, "Die deutsche Gesinnungsästhetik," in Anz, *op. cit.*, p. 208.

5. According to its author, *Was bleibt* was originally written in 1979 and then reworked shortly before publication, in November 1989, the very month the wall came down. The text describes how the author-narrator was under surveillance for several weeks during the late 1970s. To many critics the late publication date and the vague information about what kind of revision the text had undergone seemed to indicate that the decision to publish the piece was Christa Wolf's last-ditch effort to present herself (often apostrophized as East Germany's "state-poet") as just another victim.

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critical reevaluation of the role East German intellectuals played before and after unification quickly expanded to encompass attacks on what has been called the "Left-liberal consensus"[6] among West German intellectuals, and eventually culminated in a fundamental shift in attitude towards not only postwar German literature but so-called politically engaged literature as such.[7] According to the main argument, post-war literary production fulfilled at best a socially hygenic function (in the West) and at worst it prolonged, inadvertently or not, the existence of an inhuman state system (in the East). In the West, writers abused art for their overly critical evaluation of a political system which should have been praised instead; in the East, writers abused art to praise a political system that should have been criticized. These contraditory verdicts coincide in the failure common to both projects; the changed reality is said to have rendered them obsolete: Art can and must now return to its proper domain of the aesthetic. The tradition produced by this announcement of the end is a German National Literature united in death: What has died together, belongs together.

In the meantime, many aspects of the so-called Christa Wolf debate have come to the fore: questions of gender, anti-intellectualism and national identity, in addition to psychological, political and historical considerations.[8] While critics were still contextualizing the debate and analyzing its implications, new events transpired which seemed to confirm the initially critical reevaluation of post-war literature. First, Christa Wolf's contacts with the *Stasi* came to light. This was followed by similar disclosures about Heiner Müller. In January 1993, Günther Grass left the Social Democratic party, an event that symbolically sealed the retreat of intellectuals and artists from institutionalized politics. The disintegration of the so-called "Left-liberal consensus" now seems complete. The literary debate has receded into the background, overtaken by matters of greater urgency such as growing xenophobia and the bitter discussions over Germany's asylum laws. However, it was the literary debate that removed any lingering doubts about the fact that previous political divisions

6. Andreas Huyssen, "After the Wall: The Failure of German Intellectuals," in *New German Critique* 52 (Winter 1991), pp.109-143.

7. For an extended discussion, see Alexander Stephan, "Ein deutscher Forschungsbericht 1990/91: Zur Debatte um das Ende der DDR-Literatur und den Anfang einer gesamtdeutschen Kultur," in *The Germanic Review* (Summer 1992), Vol. LXVII, No. 3, pp. 126-134.

8. Several journals have dedicated special issues to the "deutsch-deutscher Literaturstreit" (German-German literary debate). See *New German Critique* 52, "Special Issue on German Unification" (Winter 1991); William Donahue, Rachel Freudenburg and Daniel Reynolds, eds., *German Politics and Society: Special Theme Issue: Getting over the Wall: Recent Reflections on German Art and Politics since the Third Reich* (Fall 1992), No. 27; *The Germanic Review: Theme Issue on the End of GDR Literature* (Summer 1992), Vol. LXV, No. 8. Among the most sophisticated analyses is an essay by Jochen Vogt, "Langer Abschied von der Nachrkriegsliteratur. Aus Anlaß der letzten westdeutschen und ersten gesamtdeutschen Literaturdebatte" in *Weimarer Beiträge* 1991, Vol. 37, No. 3, pp. 451-461. Vogt was the first to point to the deliberate eclipse of 1968 in the neo-conservatives' attempt to attack all post-war German literature.

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no longer obtained. The whole political landscape now shows signs of disintegration. Although this erosion was already apparent during the *Historikerstreit*[9] and, later, on the occasion of the Gulf War,[10] it became fully evident in the discussions surrounding Christa Wolf.

Despite this general rearrangement of political positions, one set of events remained curiously absent from the general reevaluations. The revisionists of Germany's post-WWII literary history showed no interest in the events of 1968. This absence calls for an explanation. Why occlude 1968 if what is at stake is the end of that dominant Left-liberal consensus which (presumably) became institutionalized when the Social Democrats came to power in 1969? Given that the targets of the attack were primarily Left-liberal writers, the absence of 1968 is puzzling. Of course, the initial failure to focus on 1968 has been remedied by now. Recently, 1968 has been rediscovered, integrated into revisions of postwar history and subjected to massive criticism. Now 1968 is held responsible for everything, from the state of the educational system (whose reform was carried out after the 1968 generation decided to "march through the institutions") to the frightening xenophobia seen as a direct consequence of the erosion of authority.[11] Its current role as a scapegoat is as puzzling as the almost complete absence of any comments on 1968 during the first phase of the debates. Why did 1968 come into focus only after the discussion was no longer confined to literary matters? One way to account for these phenomena is to expose the particular aesthetic logic that links the "end of art" in 1989-90 to the "death of art" in 1968.

II

The key issues of the Christa Wolf debate and its aftermath can be summed up by the way "moral" and "art" have been combined. As Greiner put it, the whole matter was a question of "intellectual morality" on the one hand, and "aesthetics of conviction" on the other. Of course, these and related concepts

9. The discussion concerned the question to what extent are historicizations "normalizations" of the Holocaust. Does any attempt to integrate the Holocuast into larger historical narratives harbor the danger of apologetic tendencies? The most important contributions, Jürgen Habermas' among them, have been collected in Reinhard Piper, ed., *"Historikerstreit": Die Dokumentation der Kontroverse um die Einzigartigkeit der nationalsozialistischen Judenvernichtung* (Munich: Piper Verlag, 1987). See also Dan Diner ed., *Ist der Nationalsozialismus Geschichte? Zu Historisierung und Historikerstreit* (Frankfurt a. M.: Fischer Verlag, 1987). For an overview in English, see *New German Critique* 44 (Spring-Summer 1988), "Special Issue on the "Historikerstreit."

10. Cf. Russell Berman, "Intellectuals and the Gulf War in Germany and the United States," in *Telos* 88 (Summer 1991), pp. 167-180.

11. For a summary of attacks on 1968, see Günther Hofmann: "Anklage von rechts: Gehört die 68er-Generation mit ihren Tabubrüchen zu den Urhebern der Welle von Gewalt und Fremdenhaß in Deutschland?" in *Die Zeit*, Oversea Edition (Jan. 8, 1993). On the relation of the 1968 generation to the GDR, see Barbara Sichtermann, "Die 68er und die R: von wegen Kollaboration," in *Freibeuter* 53, 1992.

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no longer correspond to the political positions they once expressed. Recent changes have successfully dislocated a number of concepts previously locked into ideological positons and now up for grabs, so to speak. But reappropriating political positions and aesthetic concepts is not the same as rethinking them. An indication of how much has changed and how much has remained the same is the current fate of the old opposition between "form" and "content" and the related opposition between "*l'art pour l'art*" and "*litérature engagé*." It used to be customary to indict so-called political art on the basis of its formal shortcomings. Conversely, art which emphasized form over content was said to lack moral and political substance. In the case of Christa Wolf, however, the perceived aesthetic weakness came to signify the weakness of her moral stance and vice versa.[12] Left-wing liberals suddenly found themselves forced to defend the autonomy of the text's formal qualities against its degradation to a *politicum*. Despite this reversal of traditional views, the category of aesthetic form, i.e., the idea that there is an objective measure of form, has continued to hold sway over the debates. In *Die Zeit* morality and art are pitched against each other in the figures of Heine and Börne versus the xenophobic misogynist Goethe.[13] The proverbial "wall in the head" is projected back into literary history, which is thereby split into a good and a bad tradition. The debates have begun to resemble the kinds of *Erbe-Streit* (legacy-fights) that are a favorite pastime of both the Right and the Left. But no position seems to be able to sustain itself without recourse to "form."

In the recent reshuffling of borders, comparisons are easy. Given the sudden comparability of what once seemed incompatible, it is all the more important to consider the blind spots, those aspects that did not enter the general process of reappropriating a past. Just as forgotten as the end of art in 1968 is the so-called "Expressionism debate."[14] Beyond the general features exhibited by debates of this kind, such as excessively polemical, overstated positions, etc., the

12. The editor of *Es geht nicht um Christa Wolf* correctly points out that "Christa Wolf is accused of lacking both moral integrity and aesthetic quality." See Anz, *op. cit.*, p. 7.

13. Cf. "Bald Schwein, bald Schmetterling, oder: Die Moral der Kunst ist die Moral" in *Die Zeit*, Overseas Edition (Dec. 27, 1991).

14. The Expressionism debate was primarily an intra-Marxist discussion, carried out in exile on the pages of the journal *Das Wort* during 1936-37. It began when Gottfried Benn's decision to embrace the Nazi state elicited sharp criticism from Klaus Mann. Eventually Benn's political option occasioned a fundamental rethinking of Expressionism in general. Alfred Kurella, Georg Lukács, Anna Seghers and later Bertolt Brecht participated in the ensuing discussion, which ultimately posed the question if and how the Left should deal with literary heritage. The literary heritage in question consisted of Expressionism, on the one hand, and Realism, on the other. In the course of reviewing the politics of Expressionism, Realism emerged as the true concern of the Expressionism debate. Though shortlived, the influence of this debate cannot be underestimated. In many ways, it functioned as a blueprint for the official state doctrine of Socialist Realism in East Germany. In West Germany this debate was rediscovered during the late 1960s and early 1970s. Cf. Hans-Jürgen Schmitt ed., *Die Expressionismusdebatte: Materialien zu einer marxistischen Realismuskonzeption* (Frankfurt a. M.: Suhrkamp, 1973).

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Expressionism debate of the mid-1930s and the current debate about postwar literature share the assumption that aesthetic form can legitimately function as the denominator or nexus between aesthetic-literary and socio-political processes. In his provocative attack on Expressionism's dissolution of form, Alfred Kurella claimed in 1937 "that Expressionism was an offspring of the kind of spirit that, if followed all the way, inevitably leads straight into fascism."[15] Though he later moderated his claim, Kurella and others still maintained that the destruction of social (in this case, democratic) forms could be attributed directly to the aesthetic praxis of Expressionism and related "form-destructive" trends during the 1920s. Today, in contrast, it is not the *destruction* of form but the *lack* of formal distinction that is equated with the *lack* of socio-political change in the former East Germany. Art's failure, according to the Expressionism debate, was to have accompanied, and perhaps even to have facilitated social change, i.e., the rise of fascism. Now art's failure is *not* to have brought about social change, i.e. the collapse of the East German state. In both cases, "form" functions in different ways but always as a certain index of social formations. Literature is said to have had a stabilizing effect which was problematic in the case of the former East Germany's politics and relatively unproblematic — up to now — in the case of West Germany. Whether one agrees with this or not, the very effort to relieve literature of its social conscience after unification confirms, *post festum*, the underlying confidence in art's ability to mirror and even affect social conditions by virtue of its form.[16] The renunciation of form-destructive Expressionism in the 1930s and the current renunciation of an overly content-oriented and formally underdeveloped "aesthetics of conviction" differ in political content but not in form. Indeed, the very emphasis on aesthetic form as analogous to social form constitutes their common ground.

To the extent that the changed social conditions are said to be proof of the failure of intellectuals in East Germany (since neither they nor their art were responsible for these changes), contemporary critics of every color have appropriated and refashioned a theoretical axiom of Critical Theory. Critical Theory maintained that progressive innovation in art equals progressive social innovation. Adorno's *Aesthetic Theory* presents the dialectical radicalization of this theorem: Art has to adhere to its formal law of progression but it can never hope to reflect, much less cause, any progress in society (in part because the notion of progress in late capitalism is essentially politically reactionary.) But Adorno's complex rethinking of this theorem has been completely eclipsed, and the belief in the parallels between social and aesthetic formation has

15. Bernhard Ziegler (Alfred Kurella), "Nun ist dies Erbe zuende . . . ," Schmitt, *op. cit.*, p. 50.

16. The request that art and intellectuals should now, after the end of postwar literature, reassume their proper positions outside that zone defined as political is *ex negativo* the confirmation that art is *de facto* politically effective. Paradoxically then, art and intellectuals are measured by precisely those standards of political responsibility that are denounced as an aesthetics of conviction.

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come in vogue once again: the lack of aesthetic change now equals the lack of social change. The altered politics of this theorem has not altered the theorem itself. What links someone like the Lukács of 1937 with contemporary critics is the project of restoring form to art. The current end of art is not an end at all, for it is the resurrection, the restoration of a specific notion of form that supposedly stabilizes art's role in the culture as a whole. The irony is that while Schirrmacher, Greiner and others are correct in identifying a restorative, affirmative tendency within a certain German post-war literature, they themselves participate in such a restorative project. Moreover, this restoration was originally nothing other than the restoration of the very emphasis on form that this literature supposedly lacks as an aesthetics of conviction.

III

The effort to restore form to art does not characterize merely post-war literature. It certainly did not originate at that zero hour of 1945 but dates back to the late days of the Weimar Republic. According to Hans Dieter Schäfer, the return to form on all aesthetic fronts, from the extreme Right to the extreme Left, dates back to the last years of the Weimar Republic, the crisis of 1929-30.[17] The Expressionism debate thus presents only a later but particularly prominent manifestation of a trend that began seven years earlier. Schäfer goes so far as to argue that pre-war National Socialist cultural politics could tap into already prevailing and easily appropriated tendencies toward consolidation and restoration of form. Intellectuals responded to the shock and crisis of 1929-30 by re-emphasizing and reconsolidating the formal achievements of art. this general project of restoration transcended political and ideological alternatives: The elitist Gottfried Benn and the politically engaged Anna Seghers appealed to the *Formgebärde* (gesture of form).[18] Alfred Andersch and Peter Huchel (whose

17. Hans-Dieter Schäfer, "Zur Periodisierung der deutschen Literatur seit 1930," in *Literaturmagazin*, reprinted in his *Das gespaltene Bewußtsein. Deutsche Kultur und Lebenswirklichkeit 1933-1945* (Munich and Vienna: Carl Hanser Verlag, 1981).

18. Anna Segher's neo-classicism and her advocation of the restoration of form are less interesting and less revealing than Gottfried Benn's precarious essay "Expressionism" of the early 1930s. In this homage to his own generation, Benn comes to the defense of the supposedly "form-destructive" Expressionism, while at the same time embracing the Nazi regime that attacked Expressionism's supposed lack of form. Benn understands Expressionism as the last manifestation of the will to form that he perceives to be the very essence of art. By superimposing a metaphysical concept of art with form as its essence, Benn is able to defend Expressionism as the last authentic incident of the will to form: "Art requires the morality of form, the ethos of its craftsmanship." But he then invokes, in an almost Hegelian way, the end of art: "When I now speak of art, I mean a phenomenon of the past." Benn's way of defending Expressionism from Nazi attacks by way of Nazi ideology illustrates the intrinsically problematic nature of the aesthetics of form. Of course, Benn's "end of art" — the sublation of the form in art into the state form — is fascist aesthetics. As such, it is the last and most extreme conclusion to be drawn from the parallel between form in art and form in society. The two are collapsed in the phenomenon of the Nazi state. Yet

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names have come to be associated exclusively with postwar literature) argued as vehemently against "new objectivity" and form-destruction in the journal *Kolonne* as Lukács and Kurella did a few years later in *Das Wort*. In short, a metaphysics of form prevailed on all sides. This neo-classicism, Schäfer argues, not only links the so-called "inner emigration" — the putative passive resistance of writers and artists who remained in Nazi Germany — to the anti-fascist writings of exiled authors, it also establishes a continuum reaching from the early 1930s through National Socialism and into the 1950s: "During the 1950s the confrontation of classical Realism (East Germany) and classical Expressionism (West Germany) reproduced the opposition of 1929-30. Both literatures were less concerned with critical change than with stabilizing what had been achieved."[19] Schäfer's somewhat psychologizing account interprets this withdrawal into canonized forms of modern narrative and poetry as a symptom of the "split consciousness" he attributes to the Third Reich and the post-war period. Recourse to the established forms allowed writers the illusion of producing art that could not be turned to political ends. But, of course, the notion of autonomous art which follows its own formal laws is only the flipside of the idea that art and social processes are strictly correlated; — both ultimately rely on a stable concept of aesthetic form.[20] This complicity is one reason why National Socialist ideology was able to exploit this art for stabilizing its power by granting a zone allegedly free from politics, where the compensatory classicism could thrive protected and controlled.

This general political strategy is not exclusively fascist, and it did not stop with 1945 but continued through the 1950s in both East and West. Adenauer's political slogan "No experiments!" characterized the form of Anna Segher's novels as much as those of Heinrich Böll, even if the authors did not perceive themselves as politically restorative and affirmative. In other words fascism, the

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by emphasizing Expressionism's form-*destruction*, Benn at least came close to destroying and thus surrendering the very concept of art that hinges on form. That Benn found it possible to opt for Nazism shows that he did not draw the conclusions his own argument could suggest: instead of the end of the end of art, he chose to preserve art's essence — its form — by sublating it into the state. The debates surrounding the end of art in 1968 came to a very different conclusion. Cf. Gottfried Benn, "Expressionismus" in Marguerite Schlüter ed., *Das Hauptwerk* (Wiesbaden and Munich: Limes Verlag, 1980), Vol. 4, pp. 122 and 134.

19. Schäfer, *op. cit.*, p. 80. For another illustration of the neoclassicism prevalent during the immediate post-war era, see Anton Kaes, "Literatur und nationale Identität: Kontroversen um Goethe 1945-1949" in Albrecht Schöne, ed., *Kontroversen: alte und neue: Akten des VII Internationalen Germanisten-Kongresses*, (Tübingen: Niemeyer Verlag, 1986), pp. 199-206.

20. This is not the place to examine if and in what ways even Adorno's *Aesthetic Theory* participates in this ideology of form. Yet, it should be noted that his theory of modern art, in which form figures very prominently, is supplemented by an implicit theory of tradition under the category of antiquation and correspondence. The relation between these two strands in Adorno remains unanalyzed. Cf. Theodor W. Adorno, "On Tradition," in *Telos* (Winter 1992-93), pp. 75-82.

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Adenauer era and official East German cultural politics all fostered the ideology of a direct link between social and aesthetic processes, and they all upheld a stable notion of form. The very concept of a National Literature, common to all three systems, is based on this ideology.

The postwar literature that continued the project of restoring form came under attack as early as 1955. But the arguments of Karl Markus Michel, Helmut Plessner and Theodor W. Adorno remained generally unheard. It was not until 1968 that this trend was finally broken on the occasion of a newly proclaimed "end of art." This revolt, the "death of art" as it was performed, and, perhaps even more importantly, as it was critically reflected in the immediate aftermath of 1968, marks the end of the restoration of form initiated in the late 1920s. Despite fundamental political differences, the attacks on postwar literature in 1968 are remarkably similar to those of today. Recall, e.g., Peter Handke's and Karl Markus Michel's angry denunciations of Günther Grass and "Group 47"[21] — the icons of that very Left-liberal consensus now under attack. It was Hans Magnus Enzensberger who first formulated the social hygiene argument in his analysis of the political engagement of Western intellectuals: "They have burdened literature with compensatory functions which it could not live up to. And the more West German society consolidated, the more urgently they asked for social criticism in literature. The less effective the writers' engagement, the more loudly they called for it. Literature was supposed to step in for what was non-existent in the Federal Republic: a genuine political life."[22] Enzensberger was able to see that the political strategy of the Adenauer era had rendered all engagement ineffective, *precisely because it held on to the importance of literature*: "Thus restoration was fought as if it were a literary phenomenon, i.e., by means of literature."[23] German *feuilletons* today continue precisely this strategy in their attempt to correlate aesthetic and political phenomena on the basis of aesthetic form. And because they continue it, the debates that followed the enunciation of the death of art in 1968 had to be eclipsed. The initial absence may be understood as a symptom of the effort to divert attention from the fact that the end of postwar literature had already occurred in 1968. The end of art in the 1990s figures then as the conservative and neo-conservative "remake" of 1968. But this is not the only reason why 1968 was initially silenced: the very concept of form so crucial to the project of aesthetic reformation lost its validity in 1968. Neither bourgeois art nor art as such came to an end but, as Enzensberger put it, "an equivocation has come to an end that has governed progressive literary theory for 50 years: the equation or parallelism of formal and social innovation."[24] In short, if any

21. The "Group 47" was founded in 1947 and dissolved itself in 1967.

22. Hans Magnus Enzensberger, "Gemeinplätze, die Neueste Literatur betreffend" in *Kursbuch* 15 (November 1968), reprinted in *Kursbuch*, 2 volumes (Frankfurt a.M.), Vol. 2, p. 190. The volume also contains Karl Markus Michel's brillant analysis of the "death of art." He was the first to analyze it as cultural praxis and performative act.

23. Enzensberger, *op. cit.*, p. 190.

24. Enzensberger, *op. cit.*, p. 194.

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identifiability of literary and social form is to be maintained, certain aspects of 1968 must be excluded because it is nothing less than this very identification that dissolved at the time. The abandonment of this theorem followed from the recognition that even the most radical gesture — the end of art — is swallowed effortlessly by a culture industry that in fact fosters the belief that art and society are formally correlated. Perhaps it is only now, more than 20 years later, that transformed attitudes toward cultural theory and popular culture can allow this insight to be seen as an opening and a liberation. In 1968 melancholy, resignation and disappointment prevailed among the New Left. But Enzensberger wrote then: "The proposition that a sound social function cannot be ascribed to contemporary literary production does not yield any certainties. The proposition denies that such certainties exist. If this is true, then it points to a risk which will henceforth belong to all writing."[25]

This is not the end of art but the end of the end of art; it signals the end of the opposition between autonomous art and political art insofar as their conceptualizations both depend on an aesthetic theory of form. This opening towards personal and political risks is precisely what current attempts at reperiodization cannot allow themselves to acknowledge. They cannot surrender the concept of form because they cannot afford to acknowledge that the effects of cultural praxis are neither predictable nor guaranteed. To acknowledge this would mean to concede that cultural praxis — past and present — also cannot be controlled.

25. *Ibid.*, p. 195.

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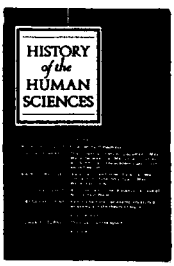

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Reviews:

The Phantom Public and its Problems

Bruce Robbins, ed., *The Phantom Public Sphere* (Minneapolis: University of Minnesota Press, 1993), 310 pp.

Thomas Bender, *Intellect and Public Life: Essays on the Social History of Academic Intellectuals in the United States* (Baltimore: Johns Hopkins University Press, 1993), 179pp.

There has been considerable debate concerning Habermas' social theory. His recently translated first major work, *The Structural Transformation of the Public Sphere* (1962) dealt with concrete issues. Afterwards, however, he delved into abstract philosophical work, making his theory ethereal and largely academic. *The Structural Transformation of the Public Sphere* had an important historical edge to it, and it featured a link to pragmatism much more than his later attempt to construct a "universal pragmatics." In his work on the public sphere, Habermas came very close to one of John Dewey's most important works, *The Public and Its Problems*.

Dewey's work may offer contemporary social theory a way out of the debate between communitarianism and liberalism. He understood the importance of the human locality and community. He believed that out of human interaction in everyday community life citizens could form a sense of a public. A public grew out of, but also went beyond a community. This is an important point, for Dewey believed that politics were rooted in a locality but involved much more than mere communitarian solidarity. A public generated contention and debate while remaining connected to local, face-to-face interaction. In this way, Dewey argued for communitarian and participatory democracy — based not on human sentimentality but rather on a politics of struggle and debate — while retaining a faith in a wider sense of public justification.

What is the outcome when the academic Left addresses these issues? Not much. Bruce Robbins has collected essays on the "public sphere" by people who consider themselves part of the "American cultural left" (x) — a code word for tenured pseudo-radical academics in English departments. Instead of confronting interesting issues, Robbins's colleagues merely rehash trendy but utterly irrelevant French post-structuralist thought. This makes the book unbearably annoying to read.

After a condemnation of historical consciousness by Bruce Robbins who argues against looking to the past for answers to contemporary problems, the book starts off with a more thoughtful essay by Nancy Fraser entitled "Rethinking the Public Sphere: A Contribution to the Critique of Actually Existing

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Democracy." Although Fraser offers a key insight into Habermas's problematic social theory, she exhibits the same intellectual poverty typical of all the writers in this anthology. In condemning Habermas' universalism, these authors swing too much in the opposite direction by uncritically celebrating particularism. The reader hears over and over again that the bourgeois public sphere which Habermas revives was based not on universal claims to truth but rather on the prerogatives of middle-class white males (a reified category which resists thoughtful analysis). Publicness thus resists female, ethnic, and class particularities (the holy trinity of the politically correct). Celebrating the supposed, recent fragmentation of American cultural life into various subgroups, Fraser argues that against a wide public including all people, critical theorists should endorse such developments as a "US feminist subaltern counterpublic" (14) which resists the homogenizing tendencies of Habermas' male public sphere. What is Fraser alluding to? "Lecture series, research centers, academic programs, conferences, conventions" and other suchlike frills (14). Not exactly what touches most peoples' lives. And although Fraser hopes that this "subaltern counterpublic" will eventually invigorate a wider public, she does not take into account how there are obvious tendencies within "academic programs" and "conferences" which marginalize those who participate in them and lead feminists to talk only to one another. In celebrating particularism Fraser ignores its nastier features.

Most authors in this collection do the same. Michael Warner in "The Mass Public and the Mass Subject" argues that the ability to speak abstractly in public belongs to white males. Minorities simply cannot present their claims with as much rationality and clarity. Warner concludes: "An assertion of the full equality of minoritized statuses would require abandoning the structure of self-abstraction in publicity" (255). Is there not something condescending in all this? Is it really true that minorities cannot do what white males supposedly can? And is it true that there is something inherently wrong in learning how to make claims which go beyond one's own particularities? Besides Fraser's arguments for a "subaltern public" among academic feminists none of these authors really explain why they think that American society is faced with an explosion of particularity. Nor do they deal with the underbelly of particularism as does Arthur Schlesinger in his much more accessible and thoughtful *The Disuniting of America*.[1]

Of course, against Habermas's abstract universalism, Fraser's stress on particularity makes some sense. Contemporary publics will have to take diversity into account. Just as important, Fraser attacks American Habermasians for their bifurcation of civil society and the state. If the state holds the power of political

1. Arthur Schlesinger, *The Disuniting of America* (New York: Norton, 1992). This book is interesting because of the tension which runs through it. In opposition to particularism, Schlesinger cannot decide whether to uphold individualism or civic participation and democracy. This tension reflects a rift in American political thinking in general.

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decision-making, then the split winds up disempowering civil society or communities. Fraser writes, "The bourgeois conception of the public sphere supposes the desirability of a sharp separation of (associational) civil society and the state. As a result, it promotes what I shall call weak publics whose deliberative practice consists exclusively in opinion formation and does not also encompass decision making" (24). The insistence on a split between civil society and the state reflects the pre-1989 Eastern European ideological baggage lingering within the imported notion of "civil society" and prevents the development of what Benjamin Barber calls "strong democracy" where communities make serious and effective political decisions.

When these people analyze contemporary American culture in terms of a public sphere, even more of their weaknesses come to the forefront. Paolo Carpignano, Robin Anderson, Stanley Aronowitz, and William DiFazio analyze the mass media in their "Chatter in the Age of Electronic Reproduction: Talk Television and the Public Mind." The essay is full of impenetrable prose. "As a self-referential and typically intertextual program, the talk show is an essential infrastructure in the strategies of television programming" (108). Worse than this, these theorists argue that the talk show — including Geraldo and Oprah — is a liberatory development since it creates a "contested space in which new discursive practices are developed in contrast to the traditional modes of political and ideological representation" (96). Just as much as the older Frankfurt School overestimated the strength and influence of the culture industry in ordinary peoples' lives, so these people see democracy in the worst products of the culture industry. For Carpignano et. al. the talk show literally empowers a new type of public since the "novelty introduced by the new kind of talk show is that the public is literally on center stage" (111). For some reason, these writers are convinced that talk shows are "politically alive" (116) and that the public determines the course of the show. This line of thought betrays the academic Left's wishful thinking about political possibilities.

In the first place, Carpignano et. al. confuse two distinct terms: audience and public. They use these two words interchangeably. The first connotes passivity, the other active engagement. Their inability to decipher this important difference represents the poverty of their thought. The audience of cultural industry products might not be the dupes the Frankfurt School thought they were, but they are nothing close to a democratic public making collective decisions about their future. The sensationalism which marks shows like Geraldo and Oprah illustrate how these shows are not the places to look for political change. Nor is there any real decision-making power in the hands of cultural-industrial audiences. Certainly talk show audiences participate, but they are not democratic publics with decision-making powers. Geraldo and Oprah are still the "stars" of the show, and serious upstaging by the audience is not allowed. Nor does the talk show audience decide what is important to debate. The issue is pre-selected. Why the contributors to this anthology consider all of this democratic is unclear, except in terms of the continual wishful thinking on the part of

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the academic Left. Once again, they miss the boat, especially since the politics articulated in these talk shows are overwhelmingly far from what the academic Left considers "emancipatory politics" (e.g., those articulated by notorious "right wingers" such as Rush Limbaugh, Bob Grant and Gordon Liddy whose talk-shows take up practically all of WABC radio afternoon prime time).

George Yudice takes up the debate about the N.E.A. and cultural politics in his "For a Practical Aesthetics." Arguing from a point of extreme cultural relativism, Yudice simplistically defends the N.E.A. In a rambling essay he argues that autonomous art is dead. He merges politics and art so much that any critical aesthetic judgment seems absurd to him. Art is only valuable if it has a clearly set-out politics (agit-prop): "Aesthetics is not defined as a 'purposeless purposiveness' (Kant) but as Keith Haring's ACT UP fund-raising letter (sent in late 1989, a few months before his death) put it, an ethical practice by which the conscience of our community [is] the primary catalyst for AIDS-related policy change" (227). Like all his colleagues, Yudice celebrates the "politics of identity" and refuses to see how problematic a culture based solely on particularity really is. If all art is politics, American culture is doomed for boredom. Agit prop can only go so far and Yudice declares Americans' best interests as funding art which is not based on skill or creativity but rather politics. The future does not look bright.

The vision which emerges from this book does not promise much for the future of American politics. Certainly Habermas's abstract universalism is to be criticized. But the question remains: what sort of particularity is being celebrated against Habermas' liberalism? Should social critics place ethnicity, femaleness, and class differences on the American political altar as much as the thinkers in *The Phantom Public Sphere* do? These three categories are just as abstract as Habermas' universal rationality. Instead of this sort of particularity social critics should point to the human experience in local communities. Localities are not abstractions, and they offer an alternative to the blandness of universalistic thought. Perhaps this sounds just as post-modern as the contributors to *The Phantom Public Sphere*. But social critics must also argue for a common good which grows out of particularities. This is the key feature of federalism and John Dewey's belief that publics grow out of yet go beyond local communities. By only celebrating ethnic, feminine, and class particularities, thinkers like Fraser, Aronowitz and Warner merely celebrate the balkanization of culture and ignore the fact that politics comes from conflict mediated by a sense of a wider public. They also refuse to see that *all* people have the capacity of becoming democratic citizens. We should not accept the special need for a black, white, female or Latino public.

Perhaps the richest localities will be those with a great amount of diversity, but diversity must be balanced by a greater sense of public justification. People must bring their diverse viewpoints to the table of public debate. This is the only way to achieve a viable vision of democracy. Academic cultural theorists and feminists are not the new agents of a democratic public. These new agents are

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citizens in localities who make public judgments and decisions with one another. Only in the lived realities of communities and the wider world of public politics will a sense of a democratic public truly grow.

A rather different picture emerges from Thomas Bender's *Intellect and Public Life*. For nearly twenty years he has studied the relation between intellectuals and their audience. This recent collection of essays continues to look at the "way in which the social organization of knowledge affects the style, context, and social significance of intellectual activity." (14) Bender also suggests possible alternatives to the great divide which presently exists between intellectuals, seemingly tucked away in academia, and a wider public.

For Bender the story of 19th and 20th century America is the displacement of "civic professionalism" by "academic and disciplinary professionalism." During the 19th century, intellectuals, driven by a sense of civic pride, rooted themselves in their local city and its cultural institutions. They wrote and spoke to a public which consisted, in the example of George Ticknor of Boston, of one's "fellow citizens" (7). With the rise of the modern university in the post-Civil War period, intellectuals started to draw boundaries between themselves and their public. As the city became unruly, with the rise of new industries and a flood of new immigrants, the academy provided a haven and a more well-defined audience for writers. It also produced a source of authority for intellectuals: the professional discipline. Bender's historical analysis locates the reasons for the current cultural poverty in the US: "The academic disciplines in America have . . . produced new knowledge, but their almost complete hegemony in our intellectual life has left Americans with an impoverished public culture and little means for critical discussion of general ideas . . ." (46).

Not all intellectuals were marginalized during the 20th century. In his last book on New York intellectuals, Bender traced out the history of intellectuals in that city, and he continues these historical explorations here, showing that the divorce between academics and a wider public never advanced as much in New York City as elsewhere. Bender argues that Randolph Bourne, the young philosopher who died in 1919, provided a model for the future "New York Intellectual" by writing on culture and politics in essays which addressed a wide audience. The tradition of the New York Intellectuals — Richard Hofstadter, C. W. Mills, Lionel Trilling — provides Bender with an example of public intellectuals (as it does for other people). Even if many of these people entered academia, in New York City "the subject matter of social inquiry was never completely captured by the academy" (77).

A certain amount of academization of intellect did take place in New York City. Bender traces out the professionalization of the social sciences in the career of E. R. A. Seligman, a founder of the American Economic Association (1885). Seligman helped create an academic profession which celebrated not only objectivity and legitimation of a member's work through professional channels but also centrist political outlooks. Although Seligman worked at Columbia University, so too did Charles Beard, a staunch critic of the professionalization of

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intellect. From an early date Beard was involved in municipal reform and saw a link between his academic pursuits and public dialogue. He not only questioned Seligman's celebration of professional expertise but eventually doubted if academia was the place for intellectuals to be. Instead of writing for other academics, Beard assumed the "burden of providing large interpretive statements about the direction of social change" (104), quit academia, and wrote solely for a wide reading public.

Another New York intellectual, Lionel Trilling, provides Bender with a transition to contemporary concerns. Although attentive to the nuances of Trilling's very long career (his relation to the Marxism of the 1930s, John Dewey's philosophy and Judaism), Bender focuses, in the end, on Trilling's conception of his audience. Trilling wanted intellectuals to relate to a cultivated middle-class reading public. "Society, for him, was universally middle class" (119). With the great growth in American prosperity during the 1940s and 1950s, Trilling's approach made some sense, but it also limited his range. "He had no rhetorical approach, no form of address, that could reach outside of the homogeneous middle class he had defined as his audience . . ." (124) Instead of returning to Trilling's hope for a uniform middle class audience as certain neo-conservatives do, Bender, drawing on Randolph Bourne's earlier celebration of American cultural plurality, challenges intellectuals to make "a general [public] conversation in a contested and fragmented public sphere" (124). He then addresses this present day challenge, arguing not only for facing hard realities about America's cultural fragmentation but also forging a philosophy which links academia and the public.

For Bender, academic intellect and public life must be deeply intertwined. He advances pragmatism's theory of knowledge as a grounding for this idea. Instead of envisioning academic pursuits as a search for objective truth, people must see knowledge as provisional. Truth is not static but constantly in the making by all people in a democracy, and academics play a role in making truth by bringing their ideas not only to other academics but to the public at large. Bender invokes the work of John Dewey, a man who was both an academic and a writer for a wider public, and argues that Dewey "did not privilege 'expert' truth and devalue the truths of citizenship. He framed intellect within a conception of the public" (136). If academics are to take the hope for a democratic culture seriously, they must speak not only to themselves but to the public world: "Politics and inquiry converge in the quest for better truths. Such a notion of [provisional] truth may make us uneasy — both as academics and as citizens — but it may also make it easier for us to be at once academics and citizens in a democracy" (138).

These arguments for a pragmatic theory of truth are convincing enough, but they do not grapple with today's institutional world. Bender shows how academia looks upon public discourse with disdain, since it does not measure up to academic standards. It is not enough to challenge this prejudice at a philosophical level. In light of the many recent criticisms of academic institutions, Bender

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should have made some of his own. One reason scholars do not write for more accessible publications is that such work brings no academic rewards; only by publishing in professional, refereed journals can academics achieve tenure and promotion. This hardly encourages public debate among academic intellectuals. What about encouraging more serious adult education programs and general community outreach on the part of universities? These institutional changes would provide substance to Bender's often abstract philosophical claims.

In the final parts of this work Bender raises the important question: how will a public regenerate itself? He correctly locates this regeneration in "local areas." Again Dewey's legacy plays a role here, for Dewey understood that only in the daily political activities of citizens can a sense of a public be generated. Given the stranglehold of academia on intellectuals, it is difficult to share Bender's confidence, in his final pages, in the ability of intellectuals to regenerate a democratic society. Yet by renewing Dewey's hopes for a democratic public culture, Bender does provide important insights for any intellectuals who venture to undertake such a task. It is only by creating an active, deliberating public that citizens can develop a democratic politics and culture.

Kevin Mattson

Opera Lite

Anthony Arblaster, *Viva la Libertà! Politics in Opera* (London: Verso, 1992), viii + 340pp.

Is opera a political art form? Up to the last two or three decades, the dominant answer within musicology was no. With the exceptions of Wagner's and Verdi's works, opera was conceived as an apolitical, autonomous art. The history of opera was the history of the development of operatic themes, forms, and styles. Even the undeniable presence of kings and coups, classes and class conflicts, revolts and revolutions in operas could be comprehended within the autonomist perspective. Operatic kings and the like had no connection to real-world political phenomena. Rather than searching for the roots of a royal characterization in history, the autonomists made reference to the evolution of kingship within the history of opera.

Despite the differences among them, critical theory, feminism, semiotics, poststructuralism, and deconstruction have all assaulted the autonomist position. From these theoretical perspectives, theme, style, and form remain important factors in the history of opera, but not in isolation from political and social

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history. Politics and society are not mere contexts, to be announced and summarily dismissed in the introduction to a proper, autonomist analysis. Rather, politics and society constitute the aesthetic substance of opera. Along with other arts, opera is "the medium in which the unconscious historiography of society is recorded." Audience dislike for some recent productions remains one of the few manifestations of operatic autonomism, as politicized renderings of *Carmen* or *Butterfly* provoke "the rage of the normal."[1]

In *Viva la Libertà!* Anthony Arblaster attempts a definitive rout of the autonomist myth of opera as an apolitical art form. He admits that some operas merely recount dramatic tales about individuals. But surveying works in the modern era, from Mozart to John Adams, he also argues for a "well-established tradition of political opera" (318). Arblaster amasses a welter of facts attesting to the internal-thematic and the external-contextual politics of modern opera. Thematically, the librettos and music of modern operas are rife with representations of the problems of governance, social conflicts and popular aspirations. Arblaster supplements the internal evidence for the tradition of political opera with the most exhaustive accumulation of relevant political facts from biographies, historical events, performances, and recordings ever assembled between the covers of a single book.

To the limited extent that the apolitical, autonomist view still characterizes the understanding of opera, Arblaster's politicization of opera is salutary. Moreover, his enthusiasm for the subject permeates every page of his book. But noble intentions and a stout heart do not guarantee a *good* book. Despite a number of useful insights, this book is plagued by fundamental problems: an ahistorical concept of modernity; a self-serving evasion of available sources; and a narrow and conventional understanding of politics. A hint of these problems turns up in the introductory chapter where the author tries to preempt criticism of his approach. He notes that he is not a musician or a musicologist. No doubt others will criticize him for his failure to include musicological analyses of operatic scores. The problem with the book, however, lies elsewhere, in the areas which should have been Arblaster's strength. He also claims that he is a historically-trained political theorist, whose background provides him with a special capacity for "understanding . . . the historical, political and cultural *context*" (9, emphasis added) of modern opera. By confining history to a context, he falls behind twenty to thirty years of theoretical work on the politics of art and opera. Because of his training in history and political theory, his accounts of historical, political, and cultural contexts may be more comprehensive than those of the autonomists, but he still replicates the old dichotomy between context and aesthetic substance.

Despite his welter of political facts, Arblaster's tradition of political opera

1. Frankfurt Institute for Social Research, *Aspects of Sociology*, with a preface by Max Horkheimer and Theodor W. Adorno, trans. by John Viertel (Boston: Beacon Press, 1972), pp. 101 and 105.

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lacks any concept of the place of either opera or politics within historical development. His political facts are just as historically ungrounded as the stylistic and formal preoccupations of the operatic autonomists. He begins his survey of political opera with Mozart and the late 18th century, for it is that period which marks "the beginning of modern politics, politics as we know it" (10). The book is already long enough and one need not quibble with his dating of political modernity. But it should be noted that the modern politics of class conflict, revolution, and nationalism did not emerge full-blown in late 18th century opera. It represents a transformation of the operatic politics of the baroque and early classical eras. Arblaster displays a similar lack of historical perspective in his last chapter. He briefly notes the political character of some contemporary operas by Glass, Stockhausen, and especially Adams, but fails to mention their postmodernist abandonment of aesthetic and political modernism. If *Viva la Libertà!* is about *modern* politics in *modern* operas, the book leaves one with no sense about what defines and delimits political or operatic modernity.

Many operas revolve around disguises and false identities. In this respect, the structure of Arblaster's book resembles an opera plot. Lacking any firm sense of historical development, the core chapters of *Viva la Libertà!* are based on a series of conceits disguised as hypotheses. Typically, the views of one or more autonomist musicologists are cited to attest to the apolitical character of a composer or an opera. Then he buries the autonomist view with thematic and contextual political facts. Arblaster can only sustain his conceits by conveniently omitting current political research on opera. In any attempt to construct a politics of opera, Adorno is the first, if not the last, name to come to mind. Yet Adorno is confined to three fleeting cameo appearances. The work of other scholars trying to mediate between politics and opera is conspicuously absent.

The chapter on Mozart and the section on Beethoven exemplify Arblaster's method. With both he has a wealth of autonomist foils. As an antidote to the apolitical Mozart of the autonomists, Arblaster offers two theses: "first, his [Mozart's] awareness of social class, class distinctions and class conflict; and, second, his sympathy with the rational humanism of the Enlightenment" (14). The pretense that these theses are original can only be maintained by Arblaster's failure to mention that Paul Robinson has already argued the first thesis and Christopher Ballantine the second.[2] Likewise, Arblaster rescues Beethoven's *Fidelio* from the autonomists. He earnestly argues that Beethoven's only venture into opera is a manifestation of the spirit of the French Revolution, in apparent ignorance of the work of two generations of scholars who have made the same point.[3]

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2. Paul Robinson, *Opera and Ideas: From Mozart to Strauss* (New York: Harper & Row, 1985), pp. 8-57, and Christopher Ballantine, *Music and Its Social Messages* (New York: Gordon and Breach Science Publishers, 1984), pp. 49-71.

3. See Ernst Bloch, *The Principle of Hope*, 3 vols., trans. by N. Plaice, S. Plaice, and P. Knight (Cambridge: MIT Press, 1986), Vol. 1, p. 163, Vol. 3, pp. 1100 and 1103; Theodor W. Adorno, *Introduction to the Sociology of Music*, trans. by E. B. Ashton (New

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The cases of Wagner and Verdi, long considered to be the political exceptions which proved the apolitical operatic rule, present Arblaster with a severe challenge. He has to search long and hard for suitable autonomist dupes. Wagner's music dramas are indelibly linked to 1848, Bavarian absolutism, and the Second Reich. In order to sustain his on-going conceit, Arblaster latches on to a few assertions by Carl Dahlhaus and Houston Stewart Chamberlain (!) attesting to Wagner's apolitical character to justify his account of Wagnerian politics. Then, lacking anything new to say about *The Ring*, he offers a twenty-page paraphrase of Shaw's *The Perfect Wagnerite*. For Verdi, whose very name came to symbolize Italian nationalism, Arblaster can find no apolitical foil. No matter; the reader is led on a torturous Long March through the familiar populism, anti-clericalism, and liberal nationalism of many of Verdi's operas anyway. Offering nothing new about Verdi's politics, Arblaster clinches his political interpretations of Verdi's works by citing the confirming views of traditional musicologists. It is *déjà vu* all over again.

The Verdi chapter presents the most revealing statement of Arblaster's taxonomy. Some of Verdi's operas "are primarily dramas of individuals" and others "are primarily political, public and patriotic" (102). For an author who wants to expand the political understanding of opera, Arblaster's concept of politics is remarkably narrow, conventional, and repressive. Political operas are about dukes, governments, cardinals, wars, and revolts. Individual operas are about the other stuff. At times this individual-political distinction is mere frippery. Despite the overt trappings of his conventional concept of politics — a king, a princess, a war, a duel, knights and retainers — Wagner's *Tristan* is passed over as "the most deliberately anti-political of all great operas" (176).

This dismissal of *Tristan* points to something more invidious than the careless use of a typology. Beneath *Tristan*'s medieval trappings lies another political dimension. The passion between Tristan and Isolde is so strong that it bursts the confines of political obligation and conventional morality, just as the score violates the conventions of tonal music. In Arblaster's separation of the individual from the political, however, *Tristan* is individual, "anti-political." With his category of individual opera, Arblaster the political theorist excludes the most distinctive thread of 20th century political theory — a thread which runs from Freud through critical theory to postmodern theories. For Arblaster, there is no operatic politics of sexuality. His individual-political distinction rejects the notion that individual psychology, the body and sexuality

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York: Seabury Press, 1976), p. 62; and *Philosophy of Modern Music*, trans. by Anne G. Mitchell and Wesley V. Blomster (New York: Seabury Press, 1980), pp. 129-30; Paul Robinson, "Fidelio and the French Revolution," in *Cambridge Opera Journal*, No. 2 (March 1990), pp. 23-48; and John Bokina, "Reason and Revolution: Beethoven's Fidelio," in *International Political Science Review*, Vol. 12 (Spring 1990), pp. 101-116. While the latter two sources are fairly recent publications, Arblaster should have had access to them. His notes contain a reference to a work published in 1992 (p. 321, n10) as well as a citation of the November 1991 issue of *Cambridge Opera Journal* (p. 324, n42).

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may also be important political factors.

By casuistry, Arblaster tries to uphold the untenable individual-political distinction. In the Verdi chapter, *Aida* is categorized as a political opera because it concerns a war between Egypt and Ethiopia. *La Traviata* was more problematic. Arblaster categorizes it as both "personal" (111) and "social" (116) rather than political. In the later chapter on "Women in Opera," however, *La Traviata* returns, this time as an important statement about the fate of women in patriarchal society. This chapter is a response to Catherine Clément's *Opera, or the Undoing of Women*, which maintained that 19th century opera, the core of the current operatic repertory, was sexist. 19th century opera required an exhibitionist death or submission of the lead female character in order to attain closure. Contra Clément, Arblaster rightly argues that the female lead is both a victim and a heroine. Her suffering elicits the audience's sympathy. In the case of *La Traviata*, Arblaster concludes that "Violetta is a victim of male society and its rules, but it is that society that stands condemned, not her" (231). Of course, he can consider *La Traviata* a "moral" rather than a political critique, but only through some dexterous hair-splitting. Unlike the war-riven *Aida*, *La Traviata* is merely personal, social, and moral because it only criticizes repressive social morality on behalf of a sexually liberating alternative.[4] Apparently, Arblaster stopped reading newspapers sometime in the mid-sixties.

Provocative insights are scattered throughout *Viva la Libertà!*. Arblaster notes the similarity of *Don Giovanni*'s Donna Elvira and the spirit of Mary Wollenstonecraft's *Vindication of the Rights of Women* (29). Amid the commonplaces of the Wagner chapter are several striking assertions: Wagner's simultaneous identification with Sachs and Walther (*Die Meistersinger*), Wotan and Siegfried (*The Ring*), Gurnemanz and Parsifal (*Parsifal*) (154); the relation of Siegfried to Rousseau's natural man (158); the idea of community (presumably *Gemeinschaft*) in *Meistersinger* and *Parsifal* (178). The book invites a comparison between Verdi's progressive (chapter 4), Wagner's racist (chapter 5), and Mussorgsky's tragic (198-208) nationalisms. And why do the commercially successful works of Puccini and Strauss depoliticize opera (245-57)? In Arblaster's book, these ideas are neither hypotheses nor conclusions. In their undeveloped form, they are promissory notes of what *Viva la Libertà!* might have been.

In the Introduction, Arblaster apologizes for his lack of credentials as a musicologist. In the Conclusion, he bemoans his failure to write *The Political Encyclopedia of Modern Opera*: grand opera, Meyerbeer, Berlioz, and the eminently political contemporary composer Hans Werner Henze are not covered. Both caveats are irrelevant. Rather than engaging in a circular dialogue with the straw men of autonomist musicology, Arblaster needed to construct a genuine political theory of opera. Taking off from the best contemporary work on the politics

4. For an analysis of *La Traviata* by a political theorist, see Alessandra Lippucci, "Social Theorizing on the Operatic Stage: Jean-Pierre Ponnelle's Postmodern Humanist Production of Verdi's *La Traviata*," in *Text and Performance Quarterly*, No. 12 (July 1992), pp. 245-73.

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of opera, this theory would ground opera in history with a concept that comprehends both the overt and personal dimensions of modern politics. Similarly, *Viva la Libertà!* does not suffer from any lack of coverage. Undoubtedly, Arblaster could have blanketed grand opera, Berlioz *et al.* with more disconnected thematic and contextual political facts. The problem is not a lack of more facts on more subjects, but a lack of those "generalizing and synthesizing faculties of the mind"[5] which raise facts to theoretical significance.

John Bokina

5. Leo Lowenthal, *Literature and the Image of Man: Studies of the European Drama and Novel, 1600-1900* (Boston: Beacon Press, 1957), p. 162.

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